

AL-15-000-5133

HARRY REID  
NEVADA

DEMOCRATIC LEADER

United States Senate

WASHINGTON, DC 20510-7020

January 30, 2015

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington D.C. 20460

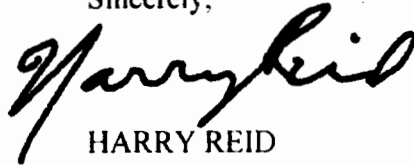
Dear Administrator McCarthy:

Enclosed is a letter I have received from the Southern Nevada Home Builders Association.

I would appreciate your reviewing this situation and providing answers to my constituent's concern. Please send your reply directly to Nat Hodgson, and send a copy of your response to me.

Thank you for your cooperation and assistance.

Sincerely,

A handwritten signature in black ink that reads "Harry Reid". The signature is fluid and cursive, with the first name "Harry" and last name "Reid" clearly distinguishable.

HARRY REID  
Democratic Leader



January 30, 2015

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20460

Dear Administrator McCarthy:

The Southern Nevada Home Builders Association is submitting this letter to you regarding the agency's proposed new regulation revising the national ambient air quality standards (NAAQS) for ozone under the Clean Air Act. As the trade association representing the majority of home builders in Southern Nevada, SNHBA is most concerned that these new standards will negatively affect how builders and developers go about their jobs and, as such, is firmly opposed to the adoption of the new standard.

We understand that EPA is proposing a new primary standard of 65-70 parts per billion (ppb) versus the current 75 ppb. Under the proposed revisions, 358 counties would violate a 70 ppb standard and 200 others would violate a 65 ppb standard for a total of 558 counties. Clark County Nevada would be in violation.

If EPA designates a county as non-attainment, its state has three years to put together a State Implementation Plan that contains a prescribed combination of federal and state air pollution control regulations to reduce ambient air pollution levels to meet new requirements, typically within 6 to 8 years.

The challenge is how to do it. While land development and residential construction activities are not typically directly regulated under the act, there have been some fairly draconian measures proposed with big impacts on home building.

For example, Texas wanted to ban the daytime use of all diesel construction equipment of 50 horsepower or greater during the ozone season (defined as April to October). Such a ban would have had an economic impact as high as \$50-\$70 million annually in Dallas/Fort Worth

metropolitan area and another \$100 to \$135 million annually in Houston/Galveston metropolitan areas. The National Associations of Home Builders members and the local home builders' association staff in Texas convinced the state to withdraw this controversial rule.

In California, the San Joaquin Valley local air quality district took the unusual step of establishing an impact fee on developers and builders of up to \$1,772 per home for developments with 25 or more housing units. It based that figure on the projected air pollution generated from diesel construction equipment and the presumed transportation-related air pollution generated by future home owners commuting between employment centers and these housing developments. Unfortunately, that measure held.

These examples highlight the fact that many of these new likely designated non-attainment areas will increasingly look toward non-traditional sectors like home building to help achieve EPA's more stringent ozone air quality standards. The home building industry, nationally and in particular in Southern Nevada, which is slowly emerging from a deep hole as a result of the great recession, does not need to be subjected to increased regulations. Such regulations will be fatal to the industry, its employees and the families, and our potential home buyers.

In Southern Nevada, our air quality regulatory agency, Clark County's Department of Air Quality has identified circumstances that show the application of these new standards in the western part of the United States is problematic. The air quality district rightly points out that ozone issues in the western U.S. are different than the conditions in the eastern U.S. Additionally, the eastern U.S. has been working on regional ozone issues for many years, but the process is just beginning in the western US. Regional transport and regional background levels must be more fully understood before much of the West can plan for attainment of an ozone standard in the range of 60 to 70 ppb.

The Department of Air Quality also argues that EPA should use the episodic background to assess overall concentrations in the West. Elevated ozone concentrations often happen during episodes when background concentrations are unusually higher because of international or regional transport and natural events, such as wildfires and stratospheric ozone intrusions. Given all these arguments, SNHBA respectfully requests that EPA not implement the new ozone standard.

Sincerely,



Nat Hodgson  
Executive Director

Cc: Senator Harry Reid



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR - 6 2015

OFFICE OF  
CONGRESSIONAL AND  
INTERGOVERNMENTAL  
RELATIONS

The Honorable Harry Reid  
Democratic Leader  
United States Senate  
Washington, D.C. 20510

Dear Senator Reid:

Thank you for your January 30, 2015, letter in which you forwarded a letter you received from the Southern Nevada Home Builders Association (SNHBA). Per your request, we responded directly to Nat Hodgson, Executive Director of SNHBA. Please see attached for a copy of the response.

Please contact me if you have any further questions, or your staff may contact Josh Lewis at [lewis.josh@epa.gov](mailto:lewis.josh@epa.gov) or (202) 564-2095.

Sincerely,

A handwritten signature in black ink, which appears to read "Nichole Distefano".

Nichole Distefano  
Deputy Associate Administrator  
for Congressional Affairs

Enclosure

**Congress of the United States**

Washington, DC 20515

March 3, 2015

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

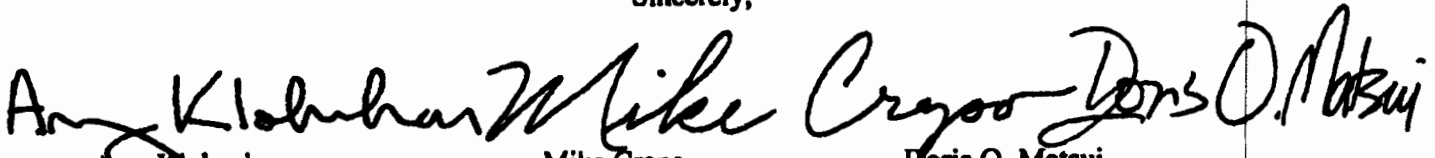
Dear Administrator McCarthy,

During the 111th Congress, we sponsored the bipartisan Formaldehyde Standards for Composite Wood Products Act that was passed by Congress and was enacted into law by President Obama on July 7, 2010. This legislation set tough limits for formaldehyde emissions to protect consumers from potentially hazardous levels of formaldehyde in composite wood products and to ensure a level playing field for the U.S. timber industry.

This law is the result of several years of negotiations and has the support of all of the affected industries, as well as public health and environmental groups. That is why we are concerned that the implementing regulations for this legislation have not been finalized. The law required final promulgation of regulations no later than January 1, 2013. We are now two full years past that statutory deadline with action by your Agency still incomplete and there are reports that potentially hazardous products are still being sold in the United States, posing a risk to consumers and families.

It is important for American consumers and the wood products industry that we have a national formaldehyde standard for composite wood products in place as soon as possible. We urge swift action to complete this regulation that will protect consumers and set clear, enforceable standards for these products. We request that your Agency provide our offices with a timeline for completing the necessary rulemakings on formaldehyde in composite wood products. We also request an explanation for the delay in this rulemaking. Please provide this information to our offices by March 13, 2015. Thank you for your timely action on this important issue.

Sincerely,

  
Amy Klobuchar      Mike Crapo      Doris O. Matsui  
United States Senator      United States Senator      United States Representative



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 25 2015

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

The Honorable Amy Klobuchar  
United States Senate  
Washington, D.C. 20510

Dear Senator Klobuchar:

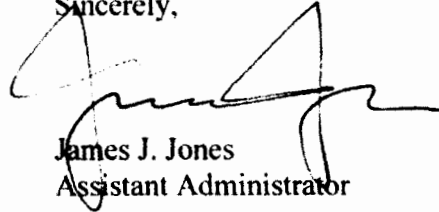
Thank you for your March 3, 2015, letter regarding the progress of the implementation of the Formaldehyde Standards for Composite Wood Products Act (Title VI of the Toxic Substances Control Act or TSCA Title VI). The agency agrees that a national formaldehyde standard for composite wood products is important for American consumers and the wood products industry, and is working diligently to complete the regulations that will implement the Act.

Prior to proposing the rules to implement the Formaldehyde Standards for Composite Wood Products Act, both proposals were submitted to the Office of Management and Budget on May 5, 2012 for review under Executive Order 12866. After more than a year of review and consultation with OMB, the rules were proposed on June 10, 2013 (78 FR 34795 and 78 FR 34820). The EPA twice granted extensions to public comment periods for both proposals, as requested by numerous commenters. In addition, the EPA on April 8, 2014 (79 FR 19305) reopened until May 8, 2014 the comment period for the proposed rule to implement TSCA Title VI emission standards (78 FR 34820) to seek additional public input regarding potential modifications to the agency's proposed treatment of laminated products. The EPA also announced a public meeting, held on April 28, 2014, to provide an opportunity for further public comment on this set of issues. Based on input from public meeting participants, the EPA extended the comment period related to the treatment of laminated products under the regulation until May 26, 2014. At this time, the agency continues to address the technical and legal complexities of this issue, including the consideration of opportunities to harmonize its proposed program with the current California Air Resources Board's Airborne Toxics Control Measure, while accommodating thousands of comments submitted by a diverse cast of stakeholders.

The EPA is very sensitive to the potential impact of these requirements on the American manufacturing sector and engaged numerous stakeholders, including small businesses, many of which provided input to the Small Business Advocacy Review Panel for these proposed regulations. The EPA took their input, and the SBAR Panel deliberations, into account in designing the proposed exemption for laminated products. In an ongoing effort to reach out to potentially affected stakeholders, the EPA met and continues to meet with companies and trade associations that represent, among other members, producers of laminated products. As part of this effort, the EPA specifically requested data on formaldehyde emissions from laminated products, as well as comments and information on the proposed definition of laminated products. The EPA received a wide variety of public comments on this issue, including comments from trade associations representing laminated product producers and producers of similar products, environmental advocacy groups, and individual businesses. The agency will consider all information received from commenters in developing the final rule, which is expected to be made final this year.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Mr. Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at [kaiser.sven-erik@epa.gov](mailto:kaiser.sven-erik@epa.gov) or (202) 566-2753.

Sincerely,

A handwritten signature in black ink, appearing to read 'James J. Jones', with a large, stylized flourish extending to the right.

James J. Jones  
Assistant Administrator



AT-15-000-5566  
**JOHNNY ISAKSON**

UNITED STATES SENATOR • GEORGIA



## Fax Cover Sheet

One Overton Park  
3625 Cumberland Boulevard  
Suite 970  
Atlanta, Georgia 30339  
770-661-0999  
770-661-0768 (Fax)

To: Congressional Inquiries

From: Hanna Yu

Fax: (202) 501-1519

Pages: 3 including cover

Date: 2/20/15

Subject: Laura Vaught

### Comments:

Please find the attached correspondence from Laura Vaught. We would appreciate  
your review of this correspondence in accordance with established policies and  
procedures. Please forward clarification of your findings to our office. Thank you.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



JOHNNY ISAKSON  
GEORGIA

<http://isakson.senate.gov>

131 RUSSELL SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
(202) 224-3843

ONE OVERTON PARK  
3625 CUMBERLAND BOULEVARD, SUITE 970  
ATLANTA, GA 30339  
(770) 661-0999

## United States Senate

WASHINGTON, DC 20510

February 19, 2015

FINANCE  
SUBCOMMITTEE ON  
INTERNATIONAL TRADE, CUSTOMS AND  
GLOBAL COMPETITIVENESS,  
RANKING MEMBER

HEALTH, EDUCATION,  
LABOR, AND PENSIONS  
SUBCOMMITTEE ON  
EMPLOYMENT AND WORKPLACE  
SAFETY, RANKING MEMBER

VETERANS' AFFAIRS

SELECT COMMITTEE ON ETHICS  
VICE CHAIRMAN

Laura Vaught  
1200 Pennsylvania Avenue  
Room 3426 Am  
Washington, D.C. 20460

RE: Mark Grimaldi

Dear Friend:

Please find enclosed correspondence I received from the above-referenced constituent. I would appreciate your review of this information in accordance with established policies and procedures. Upon completion of your review, please forward clarification of your findings to the address below.

In the event my office may be of further assistance, please do not hesitate to contact Hanna Yu at (770) 661-0999. Thank you for your efforts in this matter, and I look forward to hearing from you soon.

Sincerely,



Johnny Isakson  
United States Senate

Enclosure (s)  
One Overton Park, Suite 970  
3625 Cumberland Blvd  
Atlanta, GA 30339  
ATTN: Hanna Yu



# JOHNNY ISAKSON

UNITED STATES SENATOR • GEORGIA



## Privacy Release Form

FEB 19 2015

The Privacy Act of 1974 prohibits the government from revealing any information from personal files of individuals without the express written permission of the person involved. Disclosure of personal records to a Senator who is acting on behalf of a constituent is prohibited, unless the individual to whom the record pertains has consented.

I, the undersigned, hereby authorize the release of all pertinent information to Senator Johnny Isakson to make an inquiry on my behalf to the following Federal agency: EPA

(Name of Federal Agency)

Name: Exempt - Equinox Chemicals, LLC  
Address: Exempt  
City, State, ZIP Code: Exempt  
Social Security #: Exempt Other ID#: Exempt  
Telephone #: Exempt  
Signature: Exempt Date: 2-19-15

### PLEASE GIVE A BRIEF DESCRIPTION OF YOUR PROBLEM BELOW:

unfair penalties for small business  
for a potential paperwork error during  
the submission of an online annual report  
that we are not even convinced was our fault  
due to agency contractor server issues on  
the same day. We submitted the required  
reports accurately and on time but the agency  
claims they were not "certified" during the  
submission. The fine they assessed is \$107,320  
but have reduced to \$37,590. In their own  
words "That isn't much money"

Please return completed form to:

One Overton Park  
3625 Cumberland Boulevard, Suite 970  
Atlanta, Georgia 30339  
Or fax to: 770-661-0768  
Or email to: [casework@isakson.senate.gov](mailto:casework@isakson.senate.gov)



To:  
Fax: 7706610768  
Company:

From: Equinox Shonda send  
Fax:  
Voice:

Date: February 19, 2015  
Subject: Equinox Chemicals

Comments:

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

APR 27 2015

The Honorable Johnny Isakson  
United States Senate  
Washington, D.C. 20510

Dear Senator Isakson:

Thank you for your February 19, 2015, letter to the U.S. Environmental Protection Agency on behalf of *Exempt* of Equinox Chemicals, LLC concerning Equinox Chemicals, LLC's alleged violations of the Emergency Planning and Community Right-to-Know Act. *Exempt* requested your assistance regarding "unfair penalties for small business".

The Emergency Planning and Community Right-to-Know Act (EPCRA) provisions help increase the public's knowledge and access to information on chemicals at individual facilities, their uses, and releases into the environment. States and communities, working with facilities, can use the information to improve chemical safety management and protect public health and the environment.

Based on the available information, the EPA determined that Equinox Chemicals, LLC had potentially violated the requirements of Section 313 of EPCRA, and subsequently notified Equinox Chemicals, LLC of the potential violations. As a matter of practice, the EPA utilized its Enforcement Response Policy for Section 313 of EPCRA (ERP), commonly known as the EPCRA penalty policy (copy attached) to guide in the determination of an appropriate penalty. The ERP takes into account several factors in determining the level of penalty to be assessed including, among other things, size of business and prior compliance history. It is the EPA's policy not to comment specifically regarding ongoing enforcement actions and settlement discussions during the pendency of such actions. However, Region 4 is committed to continuing to work with Equinox Chemicals, LLC in an effort to equitably resolve and conclude this matter.

If you have questions or need additional information, please contact me or Allison Wise, in the EPA Region 4 Office of Congressional and Intergovernmental Relations, at (404) 562-8327.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather McTeer Toney".

*for* Heather McTeer Toney  
Regional Administrator

AL-15-000-5583

SUSAN M. COLLINS

MAINE

113 DIRKEN SENATE OFFICE BUILDING

WASHINGTON, DC 20510-1904

(202) 224-2530

(202) 224-2093 (FAX)

## United States Senate

WASHINGTON, DC 20510-1904

COMMITTEES:  
SPECIAL COMMITTEE  
ON AGING  
RANKED MEMBER  
APPROPRIATIONS  
SELECT COMMITTEE  
ON INTELLIGENCE

February 20, 2015

Senator Susan Collins York County Office  
160 Main Street, Suite 103  
Biddeford, ME 04005Ms. Laura Vaught  
Associate Administrator for Congressional  
and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Room 3426 ARN  
Washington, DC 20460

Dear Ms. Vaught,

Senator Susan Collins has been contacted by Mr. Tim Garrity, the General Manager of Grimmel Industries in Topsham, Maine with a request for assistance. Mr. Garrity has expressed concerns in regards to the EPA. In 2012, Grimmel Industries settled an administrative complaint filed by the EPA by paying a fine and funding an environmental project. Since that time, Mr. Garrity feels the EPA has continually been involved in various business pursuits. Most recently, Mr. Garrity details that the EPA took a position that they could not operate at a new site in Searsport, Maine without obtaining their own storm water permits. The Maine DEP had the opposite position of the EPA, and said they can operate under the waste water discharge permit pulled by the company. Mr. Grimmel is concerned about the variance in opinion and feels that the EPA has been continually involved with their company's happenings since the administrative complaint. He is wondering if there is any way to find resolved in regards to this as it is making it difficult for them to do business. Mr. Garrity details his concerns further in his enclosed letter.

Senator Susan Collins places a high priority on constituent service. With this in mind, I have forwarded Mr. Garrity's concerns to your attention. Please review the enclosed correspondence and provide any appropriate guidance regarding Mr. Garrity's request.

If you have any questions or concerns regarding this matter, please do not hesitate to contact me by phone at (207) 283-1101 or by email [Ashley\\_Walukevich@collins.senate.gov](mailto:Ashley_Walukevich@collins.senate.gov). Thank you for your attention to this matter.

Sincerely,

Ashley Walukevich  
Staff Assistant to  
Susan M. Collins  
United States Senator

YORK COUNTY OFFICE • 160 MAIN STREET • BIDDEFORD, ME • 04005



UNITED STATES SENATOR • MAINE

**SUSAN COLLINS**

## PRIVACY AUTHORIZATION

Date: 2.19.15

## To Whom It May Concern:

In accordance with the requirements of the Privacy Act of 1974, which protects my confidential records from unauthorized release, I am taking this opportunity to give Senator Susan Collins and her staff permission to receive information in my records relative to her inquiry on my behalf.

Name (Please Print)

Tim Garrity  
Grimmel Industries

Address

80 Pepperscot Village  
Topsham, Me. 04086

Telephone Number

207-729-1691

Email Address

grimmelind@aol.com

Date of Birth

X 8-22-54

Social Security Number

X 043-50-6367

Signature

X T. Garrity

As required, I have included a written explanation of my situation and the action I would like Senator Collins to take on my behalf.



I would like to receive Senator Collins's electronic newsletter.



# GRIMMEL INDUSTRIES

80 Peapack Village

Topsham, ME 04086

(T) 207.729.1631 (F) 207.729.8318

February 18, 2015

Susan Collins  
United States Senator-Maine  
160 Main Street  
Biddeford, ME 04005

Dear Senator Collins,

I am writing to ask for your assistance in dealing with a series of actions taken by the U.S. Environmental Protection Agency against Grimmel Industries. Grimmel is a local scrap metal recycler, with its headquarters in Topsham, and operations in Oakland and Lewiston, as well as Port Manatee, Florida, Savannah, Georgia, and Rensselaer, New York. The Grimmel's are a long-time Maine family from the Lewiston area, and its operations employ 40 people in Maine.

Until recently, we also operated a laydown yard in Portsmouth, New Hampshire, where we leased space from the Pease Development Authority (PDA), to stockpile scrap before loading on to cargo ships for export overseas. Given its location directly adjacent to the Piscataqua River and the small size of the site, stormwater management was challenging. In 2012, we settled an administrative complaint with EPA addressing EPA's claims for violations by Grimmel of the Clean Water Act. That settlement included paying a fine and funding an environmental project, which we did, and resolved all of EPA allegations to that point. Since then, we followed through on everything we said we would do, including paying for PDA to build a berm around our scrap piles that segregated stormwater runoff from our piles from runoff off of the rest of the site, increasing sweeping activities to pick up rust dust from the pile, and installing devices to prevent scrap from falling into the water when it was being loaded into ships. Those actions paid off, as the water quality results from our runoff improved significantly, and, in fact, were better than the results from the rest of the Port's activities. At the end of last year, however, the PDA chose not to renew our lease, and we vacated the site.

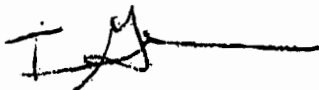
Since EPA's investigation at Portsmouth began, we have received lengthy information requests from EPA at all three of our Maine facilities, even though those are regulated by the Maine Department of Environmental Protection under authority delegated to it by the EPA under the Clean Water Act. We have also received information requests, at EPA Region I's prompting, from EPA Region 4 regarding our Georgia and Florida operations (even though the Florida site has been open for only a year and these facilities are also regulated by the Florida and Georgia environmental protection agencies). In addition, we received a request from the U.S. Department of Justice, also at EPA Region I's request, that we sign a so-called tolling agreement, which temporarily stops the running of the statute of limitations while DOJ supposedly investigates all of our facilities.

In addition, this week EPA initially took the position that we cannot operate at a new site in Searsport, Maine, without obtaining our own stormwater permits. The site we're proposing to use is a laydown area in Sprague Energy's marine terminal at Mack Point. In response, the Maine DEP took the position that we can operate under Sprague's wastewater discharge permit, which Sprague planned to amend specifically to address stormwater management from scrap piles. Contrary to EPA's initial position, this kind of situation, where the owner holds the environmental permits and the tenant operates under them, is common in Maine. EPA is now reconsidering its view that we need our own permit at Mack Point, but it is an indication that a new site in Searsport is likely to receive the same kind of treatment from EPA as we've experience elsewhere.

We take environmental compliance seriously, and believe we are in compliance at all of our existing facilities, but it appears that EPA has targeted our operations. We feel that Grimmel is being singled-out for some reason by EPA enforcement staff and are requesting your help in understanding why.

Thank you in advance for your attention to this matter.

Sincerely,



Tim Garrity

General Manager





UNITED STATES SENATOR • MAINE

**SUSAN COLLINS**

FAX COVER SHEET



**YORK COUNTY OFFICE  
160 MAIN STREET  
BIDDEFORD, ME 04005**

**PHONE: (207) 283-1101 FAX: (207) 283-4054**

**TO: Congressional Liaison: Environmental Protection Agency**

**FROM: Ashley Walukevich**

**FAX: 1-202-501 -1519**

**DATE: February 20, 2015**

**SUBJECT: Constituent Inquiry: Tim Garrity**

**PAGES (inc. cover): 5**

**COMMENTS:**

**Please Review Attached.**

**Thank You!**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
REGION 1  
5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

OFFICE OF THE  
REGIONAL ADMINISTRATOR

March 11, 2015

Honorable Susan Collins  
United States Senate  
York County Office  
160 Main St., Suite 103  
Biddeford, ME 04005

Dear Senator Collins:

Thank you for your letter of February 20, 2015, concerning EPA enforcement and permitting matters relative to Grimm Industries. Facilities engaged in scrap and waste recycling can be a significant source of pollutants to important surface water resources. Pollutants in stormwater discharges can include fuels, hydraulic fluids, oil and grease, antifreeze, biochemical oxygen demand, heavy metals and PCBs. Activities such as material handling and storage, equipment maintenance and cleaning, or other operations are often exposed to stormwater. The runoff from these areas may discharge pollutants directly into nearby waterbodies or indirectly via storm sewer conveyance systems, thereby degrading water quality. Sources of pollutants other than stormwater, such as spills, improperly dumped materials, and dust suppression water may increase pollutant loadings in discharges.

In order to protect water resources and public health from exposure to such contamination, EPA has conducted inspections and taken enforcement actions against several salvage and recycling facilities in New England including Grimm. In April of 2011, the Region issued an Administrative Order to Grimm related to its Portsmouth, New Hampshire facility requiring that it terminate process water discharges, eliminate discharges of mercury and PCBs, review the selection, design, installation and implementation of control measures to determine if modifications are necessary to meet the effluent limits of EPA's Multi-Sector Stormwater General Permit, and conduct monitoring and inspections required by the General Permit. The Administrative Order also required that Grimm respond to an outstanding information request. In June 2012, EPA and Grimm reached agreement on a related penalty action brought by EPA. The settlement required a payment of \$75,000 penalty and implementation of a supplemental environmental project.

EPA subsequently has conducted inspections at other Grimmel facilities. While we cannot discuss the specific details of any outstanding investigation or enforcement matter, inspectors routinely communicate inspection findings to facility managers during each site-visit. Please be assured that EPA Region 1 will continue to evaluate carefully all relevant issues of compliance with applicable permits in light of the particular facts and circumstances underlying the matter.

With respect to your question regarding stormwater permitting related to the Searsport, Maine, facility, it is standard practice for states that are authorized to administer EPA's National Pollutant Discharge Elimination System program, such as Maine, to provide copies of draft permits to EPA for an opportunity to review and comment. Under both federal and Maine regulations, any stormwater discharge associated with an "industrial activity" described in those regulations is required to obtain permit coverage. EPA and State regulations further require that the permit be issued to the operator of a facility, not the owner of the property. In a scenario where there are two separate operators located at one location, each operator has an independent obligation to obtain a permit. EPA's stormwater permits office has discussed the specific circumstances of the Searsport facility with Maine DEP, and we understand that Maine DEP will provide guidance to Grimmel shortly.

Again, your interest and input into this matter have been noted and are very much appreciated.

Sincerely,



H. Curtis Spalding  
Regional Administrator

cc: Michael Kuhns, Director, Bureau of Land and Water Quality, MEDEP  
Gregg Wood, Bureau of Land and Water Quality, MEDEP

## United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, D.C. 20540

February 24, 2015

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW (1101A)  
Washington, D.C. 20460

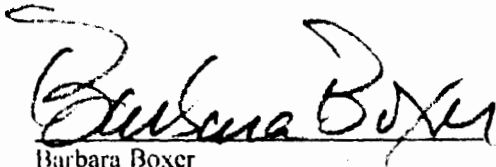
Dear Administrator McCarthy:

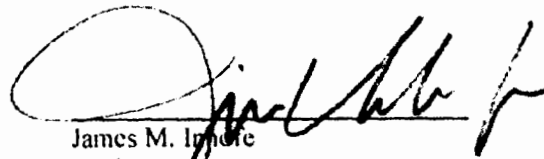
On behalf of the Senate Committee on Environment and Public Works, we would like to thank you for testifying before the Committee on Wednesday, February 4, 2015. The committee greatly appreciates your attendance and participation in this hearing.

In order to maximize the opportunity for communication between you and the Committee, follow-up questions have been submitted by the members. We ask that you respond to each member's request in a separate typed document. To comply with Committee rules, please e-mail a copy of your responses to [Elizabeth.Olsen@epw.senate.gov](mailto:Elizabeth.Olsen@epw.senate.gov) or deliver one hard copy within 14 days after the date of this letter. Responses should be delivered to the EPW Committee at 410 Dirksen Senate Office Building, Washington, DC 20510. Due to security restrictions, only couriers or employees with government identification will be permitted to bring packages into the building.

If you have any questions about the requests or the hearing, please feel free to contact Laura Atcheson, Counsel on the Committee's Majority staff at (202) 224-7844, or Jason Albritton, Senior Policy Advisor on the Committee's Minority staff at (202) 224-1914.

Sincerely,

  
Barbara Boxer  
Ranking Member

  
James M. Inhofe  
Chairman

**Environment and Public Works WOTUS Hearing**  
**“Impacts of the Proposed Water of the United States Rule on State and Local Governments”**  
**February 4, 2015**  
**Follow-Up Questions for Written Submission to EPA Administrator McCarthy**

Chairman Senator Inhofe

1. Please provide details on the resources, staffing, and procedures that will be utilized in reviewing the nearly 1 million comments received on the proposed waters of the United States rule. You promised to carefully consider these comments, yet also stated an intention to have the rule finalized in the spring of 2015. Taken with a 2-month interagency review period, this leaves 50-60 working days to review millions of pages of comments. How does EPA plan to complete such an expedited review?
2. When does EPA anticipate having all of the comments posted for public review? Currently only a small percentage of the comments have been posted.
3. You have stated that the rule narrows what is considered jurisdictional. What are you using as a baseline? Keep in mind that using previous rules rather than the 2008 Guidance would be misleading, because important elements of these have been struck down by subsequent court decisions.
4. You pledged to correct/tweak many parts of the rule during the recent Senate Committee on Environment and Public Works hearing on the proposed rule. However, as you stated, these issues are very complicated and difficult to address. Will you commit to subjecting the revised rule to a public notice and comment period?
5. Municipal Separate Storm Sewer Systems (“MS4s”) are permitted as “point sources” by EPA and states under the CWA Section 402 National Pollutant Discharge Elimination System (“NPDES”) program. That is, MS4 owners and operators must obtain Section 402 permits for pollutant discharges from MS4s into WOTUS. Moreover, EPA regulations provide that the boundaries of MS4 systems – and all of the component ditches, drains, pipes, curbs, gutters, and outfall points that comprise these systems – should be delineated and mapped such as through the use of GIS technologies. Given that MS4 discharges are already subject to exhaustive NPDES permitting requirements shouldn’t these mapped and identified storm sewer systems – and all of their component parts – be excluded from WOTUS coverage?
6. EPA and the Army Corps regulations have long held that “waste treatment systems” are excluded from WOTUS coverage. See 40 C.F.R. § 122.2 (exclusions from WOTUS definition at subsection (b)(1)). MS4s treat, store, and recycle municipal and industrial

pollutants that are present in stormwater flows, before such pollutants are discharged into WOTUS. In EPA's views, are MS4s considered "waste treatment systems"? If so, shouldn't MS4s thus be captured by the "waste treatment system" exemption to WOTUS? Do the agencies consider untreated stormwater that enters into and travels through an MS4 a "waste"?

7. When an industrial activity results in a discharge into an MS4, EPA has "always addressed such discharges as discharges through [MS4s] as opposed to 'discharges to waters of the United States' ...." See Preamble to Phase I Rule, 55 Fed. Reg. 47,900, 47,997 (Nov. 16, 1990) (emphasis supplied). Therefore, shouldn't Section 402-permitted MS4s and their component parts be exempt from WOTUS coverage?
8. EPA's economic analysis of the proposed rule indicates that the rule will "not have an effect on annual expenditures" associated with development of state water quality standards, monitoring and assessment of water quality, and development of total maximum daily loads. Given that even by EPA's own estimate the rule will expand the current scope of federal jurisdiction, how do you assume that states will be able to expand such costly CWA programs at no expense?
9. EPA's economic analysis of the proposed rule indicated that the rule would "be cost neutral or minimal" with respect to Section 402 discharge permits for industrial operations. Given that by EPA's own estimate the rule will expand the current scope of federal jurisdiction, as well as industry's clearly stated concerns that the rule will bring on-site waters under federal oversight, how will this rule be "cost neutral" for industrial operations?
10. For the first time ever, your rule codifies CWA jurisdiction over on-site water management features such as ditches. The broad language in the rule could also easily be read to encompass other features on industrial sites that are not currently jurisdictional, such as settling ponds and basins. Why did your Agency fail to consider the additional costs added to the regulated public if on-site water management features – designed to ensure any discharges into downstream water meet environmental standards – are now themselves federally protected waterways under the CWA?
11. As you have heard from multiple entities, the broad overlapping definitions in the rule could bring a number of additional waters – including waters at industrial sites – under federal jurisdiction despite the intentions of the Agency. How do you intend to address these legitimate concerns in the final rule?
12. EPA has stated that it does not intend to modify or in any way limit any of the current exclusions from CWA jurisdiction, including the waste treatment system exclusion. Is this true?

13. If EPA – who is not the permitting authority in the case of Section 404 - can at any time retroactively veto the duly authorized specification of a disposal site, can it really be said that CWA Section 404 permits are *ever* final?
14. In 1972 during deliberations on the Clean Water Act in Congress, Senator Muskie noted that there are three essential elements to the Clean Water Act -- "uniformity, finality, and enforceability." Do you agree that finality is an important consideration for permits? How do the assertions made by EPA regarding the scope of its authority under Section 404 comport with the notion of permit finality?
15. Without any discernible or objective criteria governing EPA's claimed authority under Section 404(c), EPA's retroactive revocation of a lawfully issued Section 404 permit has destroyed the essential element of permit uniformity. What impact do you think EPA's actions will have on investment in U.S. property and natural resource development?
16. EPA's internal documents have stated that preemptive 404 actions, such as those taken with respect to the Pebble Mine in Alaska, could serve as a means of "watershed planning." If EPA is granted the authority to undertake such unilateral watershed planning, what would be the impacts on states?
17. Under the proposed rule, EPA and the Corps are suggesting that the movement of wildlife, including birds between one water and another, or the reliance by such species on a particular water within a watershed for any part of the species' life cycle, can be used to identify when waters are connected for purposes of asserting federal jurisdiction. Can you explain how this is different from the migratory bird rule struck down in SWANCC?
18. The proposed rule will make all perennial, intermittent, and ephemeral tributaries – including most streams and ditches and many dry washes – automatically jurisdictional. In connection with a hearing on the proposed rule by the House Science Committee, EPA released some USGS maps that show 8.1 million miles of intermittent, perennial and ephemeral tributaries, without even counting the ditches and dry washes. By contrast, EPA's latest National Water Quality Inventory Report to Congress says that State 305(b) reports identify only 3.5 million miles of federally jurisdictional "waters of the United States" nationwide under current regulations. Given that the preamble of the proposed rule indicates that USGS maps can be used to help identify jurisdictional waters, can you explain whether the additional 4.6 million stream miles reflected on the USGS maps released to the House Science Committee will not be treated as jurisdictional once the proposed rule is finalized? [Source: U.S. Environmental Protection Agency, Office of Water, National Water Quality Inventory: Report to Congress (January 2009)].

19. Today electric utilities, other energy facilities, and manufacturing facilities (often located in floodplains and riparian areas) design complex systems to manage and direct/divert water, stormwater, and waste on site so they can use the land and meet environmental requirements under federal and state law. These systems typically include ditches and canals that take water and waste to impoundments and treatment facilities and directly flow around and away from the facility. Only if the facilities end up discharging to a navigable water or adjacent wetland would they need to obtain Clean Water Act permits to meet water quality requirements at the point of discharge. The proposed rule would appear to make many of these ditches and impoundments themselves jurisdictional, requiring companies to meet water quality standards in the ditches and impoundments themselves rather than solely in downstream navigable waters and wetlands. EPA has long recognized that waste treatment systems are exempt from NPDES permit requirements and that water withdrawn for human use is not "waters of the United States." In keeping with these positions, does EPA agree that purpose-built water and waste management, collection, and diversion systems, including their ditches and impoundments, are not federally jurisdictional?
20. EPA, the Corps, and the regulated community rely on nationwide permits under Sections 402 and 404 to authorize discharges to jurisdictional waters without the need for individual permits, which take much longer and cost much more to obtain. This has been an especially important tool for energy infrastructure projects. Today, the use of a nationwide permit is subject to a small acreage limitation affected by "single and complete" projects, which are sections of projects that affect such waters. The proposed rule appears like it will make it more difficult to use nationwide permits by making it harder to qualify for them. How would EPA and the Army Corps ensure that most or all projects that now qualify for NWP would continue to do so?

Ranking Member Senator Boxer

- 1) Ms. McCarthy and Ms. Darcy, you have taken important steps to solicit public and stakeholder input as part of the rulemaking process. For example, I understand that the comment period was extended twice and lasted over 200 days, which seems like a long period of time compared to most rulemakings. Is this correct?
  - a. I also understand EPA and the Corps have conducted significant outreach beyond the formal comment period. Can you also elaborate on the types of outreach conducted for this rule?
  - b. How will EPA and the Corps incorporate the feedback you have received as you work to prepare a final rule?
- 2) The Clean Water Act broadly protected small streams and isolated wetlands for nearly 25 years until the *SWANCC* case in 2001. Can you tell the Committee whether the proposed



Clean Water rule covers more waters than were protected prior to the SWANCC decision in 2001?

- a. Were businesses in this country able to operate prior to 2001 when the Supreme Court narrowed the scope of the Act?
- 3) Ms. McCarthy, many of my colleagues choose to focus on perceived overreach and exaggerated costs of the proposed rule without discussing the value of providing clean water for our families and businesses.

Can you elaborate on some of the benefits of the proposed rule?

- 4) Ms. McCarthy, in administering landmark laws, like the Clean Water Act, it is important that Federal agencies follow the best available science. Can you expand on the science that was used to develop the rule and whether the protections included in the rule are supported by science?

Senator Wicker

- 1) Under your proposed rule; all waters in a flood plain are regulated, not just wetlands. So, under your rule you could be expanding jurisdiction to reach standing water in farmers' fields.
- 2) Will you commit to me that the final rule will not apply to "all water" in a flood plain or riparian area or "all water" that might flow over the land or that might move through the ground?
- 3) Please respond to concerns expressed to me by members of the Council of International Shopping Centers in Mississippi that the proposed rule broadens the scope of the Clean Water Act beyond statutory and constitutional limits established by Congress and affirmed by the Supreme Court. Specifically, uncertainty is created by allowing certain features to be considered jurisdictional based on their relationship to "impoundments" while leaving "impoundment" undefined; and the reliance on the confusing concept of ordinary high water mark as the key identifier for tributaries.
- 4) Please provide definitions and respond to the concern by the International Council for Shopping Centers that the rule leaves many concepts vague and undefined such as "impoundment," "floodplain," "riparian area" and "shallow subsurface hydrologic connection."

Senator Sullivan

- 1) The EPA's economic analysis of the proposed rule says that it would result in a 3% increase in jurisdictional waters nationwide. Does the EPA have an idea of how much of that would be found in Alaska?
- 2) Will tundra with underlying permafrost be considered jurisdictional under the proposed rule?
- 3) Is permafrost itself jurisdictional under the proposed rule? If so, what is the significant nexus between permafrost and a navigable water, interstate water, or territorial sea?
- 4) Are mountaintops that are covered in snow pack, or glaciers jurisdictional under the proposed rule?
- 5) Are alpine muskeg peat bogs jurisdictional under the proposed rule?
- 6) Are forested wetlands on steep slopes that do not have a traditional hydrological connection (defined bed, bank or ordinary high water mark) jurisdictional?
- 7) Businesses need fair and consistent permitting. However, clarity is not necessarily uniformity. Permafrost, tundra, muskegs, boreal forest spruce bogs, glaciers, and massive snowfields are features unique to Alaska and are absent in the vast majority, if not the entirety, of the rest of the U.S. Would you be willing to tailor the rule to take into account regionally specific characteristics?
- 8) The EPA has stated a number of times, including at the hearing, that ditches are excluded from jurisdiction under the proposed rule. A closer read of the proposal lists a number of criteria a ditch must meet in order to be excluded from jurisdiction. Do you envision that some ditches located on residential and commercial properties will meet these criteria?
- 9) Do you think that you have adequately complied with Executive Order 13132, which requires consultation with states for rulemakings that have "substantial direct effects on the states?"
- 10) In your view, will this proposal result in fewer citizen lawsuits?
- 11) What assurances can you provide the public, state and local governments, tribes, and regulated industry, that this rule will not cause skyrocketing costs of compliance, including mitigation costs?
- 12) Even if EPA does not intend to regulate waters which may be interpreted as newly jurisdictional, how can small landowners avoid eventual litigation brought against them due to these wide interpretations?

- 13) Section 101b of the Clean Water Act clearly states, "It is the policy of Congress to recognize, preserve, and protect the *primary* responsibilities and rights of the states to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator in the exercise of his authority under this chapter." Why was the State of Alaska treated as nothing more than another contributor to the public comment period?
- 14) How do you think this proposed rule will impact the ability of state and local governments to exercise their authority with respect to land use management and planning?
- 15) All activities that will potentially affect newly jurisdictional waters will need to be approved by the Corps, and will be subject to EPA veto. Do you think the rule confers upon the EPA expansive control over land use and economic development decisions traditionally reserved for state and local governments?
- 16) How will the proposed rule impact the ability to create critical infrastructure that requires 404 permits?
- 17) The proposed rule is based on the Connectivity Study, which was itself developed without consultation with the states, local or tribal governments, or industry. The report lacks regional examples, including for Alaska. How can EPA rely on such generalized information?
- 18) By some estimates Alaska has 65% of the country's wetlands and the majority of these are dependent on continuous or discontinuous permafrost. Why didn't the Connectivity report include any maps or illustrations of Alaska?
- 19) Why did the EPA Science Advisory Board convened to look at the Connectivity Report only include academics and not a single regulatory expert or scientist from a state government?
- 20) Writing such a broad rule that applies nationally is certainly a difficult task. Wouldn't the EPA have benefitted from additional assistance from state regulatory experts and those with intimate knowledge of specific watersheds and the unique hydrology and geographic features of the different regions of the country?
- 21) Under the proposed rule, landowners with properties containing newly jurisdictional waters may experience a decrease in property value. Has EPA considered how the rule will affect property values?
- 22) Since the rulemaking was drafted before completion of the Connectivity Study, upon which it is based, how was there a meaningful opportunity to comment on the proposed rule provided?

Senator Vitter:

- 1) In light of EPA's actions with respect to the Bristol Bay and Pebble mines incidents, do you believe that the regulated community has certainty that they can receive due process to have their projects fairly considered?
- 2) Studies have clearly shown that even a slight increase in uncertainty causes exponential reduction in capital investments. Now that your Agency is expanding its authority over even more waters, how do you intend to instill certainty and reliability in the CWA permitting process?
- 3) Under current regulations and Corps practice "all water" in a flood plain is **not** jurisdictional. In fact, in a 2004 report, GAO identified only one Corps of Engineers district (Galveston) that used the floodplain alone to establish jurisdiction over a wetland and even in that district, if the wetland was separated by two or more berms, it was not considered a water of the United States.

According to the Rock Island District, the flood plain extends several miles inland from the Mississippi River and they felt that regulating all wetlands in the floodplain (much less all water) would be overreaching their authority.

The proposed rule leaves the scope of the flood plain to the "best professional judgment" of EPA or the Corps, only requiring the presence of land formed by "sediment deposition under present climactic conditions" and inundation when there is high water flow.

There are no limits on the period of time that a so-called flood plain could be free from water, allowing agency officials to use any historic flood to identify the extent of the flood plain. Attached is a picture of the land around Brunswick MO that was inundated during the 1993 Missouri River flood.

Also, below is a graphic that demonstrates the impacts of using the floodplain to identify waters of the U.S. As you can see, almost every facility manages water, if only stormwater, and if the facility is located in a floodplain then that water will be a water of the U.S under your proposed rule.

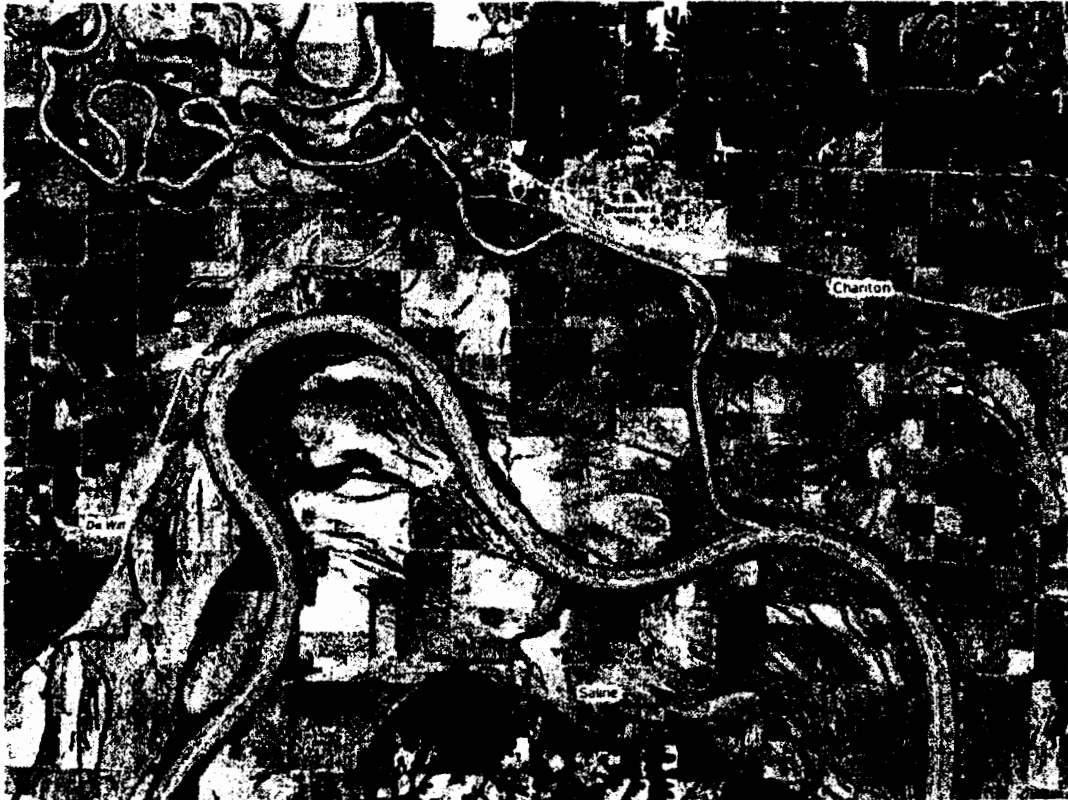
Last Friday, this situation got even worse. President Obama issued a new Executive Order that changes the definition of floodplain from the area inundated by a 100 year flood to one that is based on either the 500 year flood, 2 or 3 feet above the 100 year flood, or some other area based on climate modeling.

This new flood standard was issued without public participation. The order says you plan to get public input after the fact – but the new flood standard has been set.

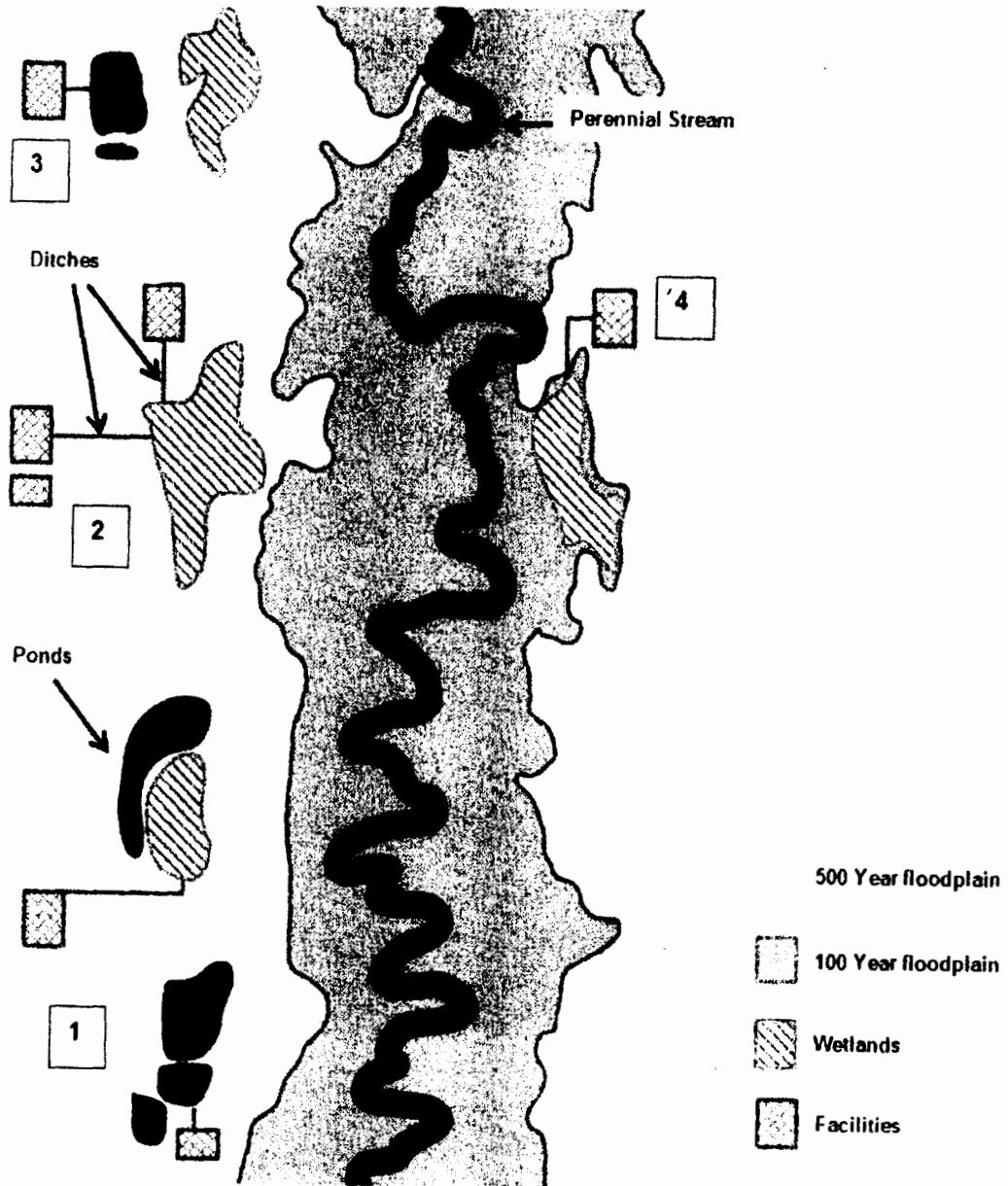
**Will you commit to me that you will not try to turn water located at industrial facilities, farms, municipal water and wastewater facilities, and even homes into waters of the U.S. just because they are in a flood plain?**

**Will you also commit to me that the Executive Order will have no bearing on your waters of the U.S. rule?**

Graphics:



1993 Missouri River Flood – Brunswick, MO



JAMES M. CARPER, CLARK, MD, CHAIRMAN

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# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BARBARA BOXER, CALIFORNIA  
 DANIEL M. SHERIDAN, ARIZONA

February 10, 2015

The Honorable Gina McCarthy  
 Administrator  
 U.S. Environmental Protection Agency  
 1200 Pennsylvania Ave. N.W.  
 Washington, D.C. 20460

Dear Administrator McCarthy:

As the ranking member on the Environment and Public Works Committee, which oversees the implementation of the Renewable Fuel Standard (RFS), I am writing to express my concerns over the Environmental Protection Agency's (EPA) delays in establishing the new biodiesel volumes under the law.

Despite the biodiesel industry's continued growth, the agency has not yet set the 2014 RFS volumes and it has indicated it will not do so until later this year. In addition, the 2015 standard for biodiesel has been delayed for over one year, and the 2016 standard should have been set at the end of 2014.

Unfortunately, the agency's original 2014 proposal would have set levels far below that of the biodiesel industry's production capability, and the delays in promulgating final rules have harmed the investment expected to flow into both biodiesel and other advanced biofuels industries. Indeed, biodiesel producers in California have seen significant impacts caused by the original proposal and current delays.

Like many industries, the biodiesel industry requires certainty in order to plan for future production, continue to innovate, and to expand advanced production technologies. Ensuring the continued implementation of the RFS is also a critical part of the country's efforts to realize the industry's contribution to reducing carbon pollution and addressing climate change.

Under the RFS, biodiesel volumes can be promulgated independently of the other fuel categories. I urge the agency to issue the 2014 biodiesel volume levels in a manner consistent with actual industry production levels and to ensure that the agency move toward meeting the statutorily prescribed schedule for setting Renewable Volume Obligations (RVO).

Thank you for your consideration.

Sincerely,

*Barbara Boxer*

Barbara Boxer  
 Ranking Member

AL-15-000-5159

TIM Kaine  
VIRGINIA

WASHINGTON OFFICE

WASHINGTON, DC 20510-4607  
(202) 224-4624

COMMITTEE ON  
ARMED SERVICES

COMMITTEE ON  
FOREIGN RELATIONS

COMMITTEE ON  
THE BUDGET

## United States Senate

WASHINGTON, DC 20510-4607

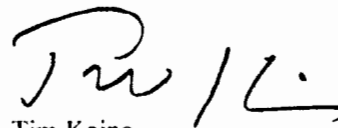
January 27, 2015

Ms. Laura Vaught  
Associate Administrator for Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Ms. Vaught:

I have recently been contacted by *example* of Middlesex, Virginia. Attached please find a copy of that correspondence. I would appreciate it if you could look into this matter and provide me with an appropriate response. Thank you.

Sincerely,

  
Tim Kaine



Matthew L. Walker  
County Administrator



OCT 24 2014

Marcia Jones  
Assistant Administrator

**County of Middlesex**  
**OFFICE OF THE COUNTY ADMINISTRATOR**

October 15, 2014

The Honorable Timothy Kaine  
388 Russell Senate Office Building  
Washington, DC 20510

Dear Senator Kaine:

The Middlesex County Board of Supervisors, as well as representatives and citizens in several other counties in Eastern Virginia, have been made increasingly aware of the limits to the primary source of drinking water, our groundwater aquifers. At their meeting on October 7, 2014, the Middlesex County Board of Supervisors, upon request of one of its members, voted to authorize the County Administrator to write our state and federal legislative representation to request that the U.S. Geological Survey, or other appropriate federal agency, study and provide answers to the following questions regarding the Potomac Aquifer:

- 1) The inflow and outflow of water from the aquifer in gallons per day and the expected useful life of the aquifer at the above rates.
- 2) Suggested method and cost to stop salt intrusion from the Chesapeake Bay Crater.
- 3) The estimated flow of water in gallons per day moving from the potable strata of the aquifer into the lower salt region aka the intersecting cones of depression, and, the suggested method and costs for stopping this loss of potable water.
- 4) Suggested method and cost for providing an alternative water source, including surface water, for the two largest industrial draws in the aquifer.
- 5) Model the effects over time of the dwindling water supply on current and projected future users.

For your information a copy of the attached "Proposals for Stabilizing the Potomac Aquifer and Nutrient Reductions in the Chesapeake Bay" as well as the past resolutions adopted by the Board have been included with this request.

**PROPOSALS FOR STABILIZING THE POTOMAC AQUIFER  
AND  
NUTRIENT REDUCTION IN THE CHESAPEAKE BAY**

It is widely recognized that the Potomac Aquifer, which most citizens in eastern Virginia depend for potable water, is in serious trouble. DEQ states it can not be pumped sustainably for the long term, the land is subsiding, and salt water intrusion is poisoning the wells in four counties.

We the undersigned are concerned that this problem is not receiving the attention that it requires. Despite DEQ's prediction that at the present rate of withdrawal the aquifer may fail in twenty-five years, no long term or even a verifiable short term fix has been proposed. The sole proposal stemming from DEQ's unpublished "decision" is to require a 50 percent reduction in all withdrawal permits. While the intent is commendable, if taken alone, it will cause significant disruptions in our existing commercial base and will certainly slow future economic development in our area's economy, while only marginally extending the life of the aquifer. It will have NO effect if allocation trading is permitted.

It is important to understand that while the Potomac Aquifer is stratified into three layers\* or strata (the upper, middle and lower). Only the middle is producing clear low sodium potable water. The upper stratum is contaminated by surface pollutants and salt intrusion from the Chesapeake Bay (this salt intrusion was not a problem until the aquifer's water level dropped in the 1950s.) The lower stratum also has a high salt content, probably formed millions of years ago. While the three stratums\* are generally defined, they are all in fluid communication and since 2009 USGS no longer refers to upper, middle or lower strata in the Potomac Aquifer.

The best tool to stop the depletion of the Potomac Aquifer is the proper reuse of wastewater for industrial and agricultural purposes. Reuse water is especially well suited for agricultural purposes since it contains the nitrogen and phosphorus compounds normally found in fertilizer. Or, it can be further refined to produce quality water similar to that produced by the Upper Occoquan Sewage Authority. Water from this facility is so good that it is currently providing 20-90% of the drinking water that serves 1.4 million residents of Northern Virginia.

Thank you for any assistance you can provide in this matter.

Sincerely,

*[Handwritten signature]*

County Administrator

Enclosed: "Proposals for Stabilizing the Potomac Aquifer and  
Nutrient Reduction in the Chesapeake Bay"  
Resolution # 1 dated May 6, 2014  
Resolution # 2 dated September 3, 2013

Reuse water as a replacement for water from the aquifer could supply about 20 million gallons per day from two waste treatment plants (Yorktown and Williamsburg) to the RockTenn papermill in West Point. The required infrastructure (basically a 55 mile pipeline) would cost about \$120 million dollars to construct. This may seem high, but it should be noted that about 80% of this amount could be recovered by reallocation of the funds that are required to meet EPA's nutrient reduction requirements for the Chesapeake Bay. With this pipeline in place and providing an infusion of reuse water for RockTenn's production purposes, it would then be possible to back fill reuse water from a Richmond wastetreatment plant thru the 800 foot well points located in the West Point vicinity. These well points are a direct conduit to the center of the West Point "cone of depression" terminating in the lower high salinity level, as shown in Figure 1. The infrastructure for filling the West Point "cone" would cost about \$100 million, but in turn, reduce the Chesapeake Bay nutrient reduction costs by \$330 million. This is based on a fill rate of 50 million gallons per day (mgpd) see Attachment 1 - Summary. Note: the West Point facility could close their existing reverse osmoses (RO) facility since they would receive "fresh" water, thereby saving the high operating costs of an RO facility and the equipment sold or used for other purposes.

Although not specifically studied at this time, it is presumed that the Franklin mill could be treated in a similar manner as the West Point mill, including backfilling at Franklin's "cone of depression". The rate of fill has not been verified, but for the purposes of this proposal, a rate of 50 mgpd has been used for each mill.

A major obstacle to the health of the Potomac Aquifer is salt water intrusion leaking from the Chesapeake Bay crater. This high salinity water from the Chesapeake Bay is threatening the drinking water in the four counties that surround the crater. A similar problem was solved in Orange County and San Diego, California by pumping water with certain hydraulic clays to seal further salt intrusion.

If no action is taken, a flow of good potable water from the "middle"\* aquifer will continue to drop down to fill the void in the lower\* non-potable salt layer. On the other hand, if the steps outlined above and in Attachment 1 were taken, it would be possible to reverse the current withdrawal deficit of 110 million gallons per day (mgpd) to a surplus of 25 mgpd. In addition the use of reuse water would prevent 3.5 million pounds per year of nutrient

products from reaching the Chesapeake Bay - equal to 70% of the remaining portion of the 2025 TMDL program mandated by EPA. Based on our current costs of about \$250 per pound for this nutrient reduction, it would save about \$740,000,000 enough to pay for all the infrastructure required to deliver quality reuse water to the two papermills for their production (about a third of our current aquifer's output) as well as provide the water necessary to begin to refill their related cones of depression. EPA agrees it is acceptable to inject water with up to 10 mg/l of nutrients into an aquifer. For additional details see Attachment 1 - Summary.

In closing, it should be noted that the elements of the actions outlined above have been successfully implemented in other states. But, to maximize the beneficial effects we need to rethink many of our current reuse regulations. We could, for example, look at models set up by other states, such as Florida and California, which have successfully reused their water for many years to protect their diminished potable water supplies and increase revenue for the state or locality.

We the undersigned ask that we be afforded an opportunity to present this proposal before the State Water Commission to justify these proposals and present a funding request for a feasibility study to determine precisely the cost and benefits.

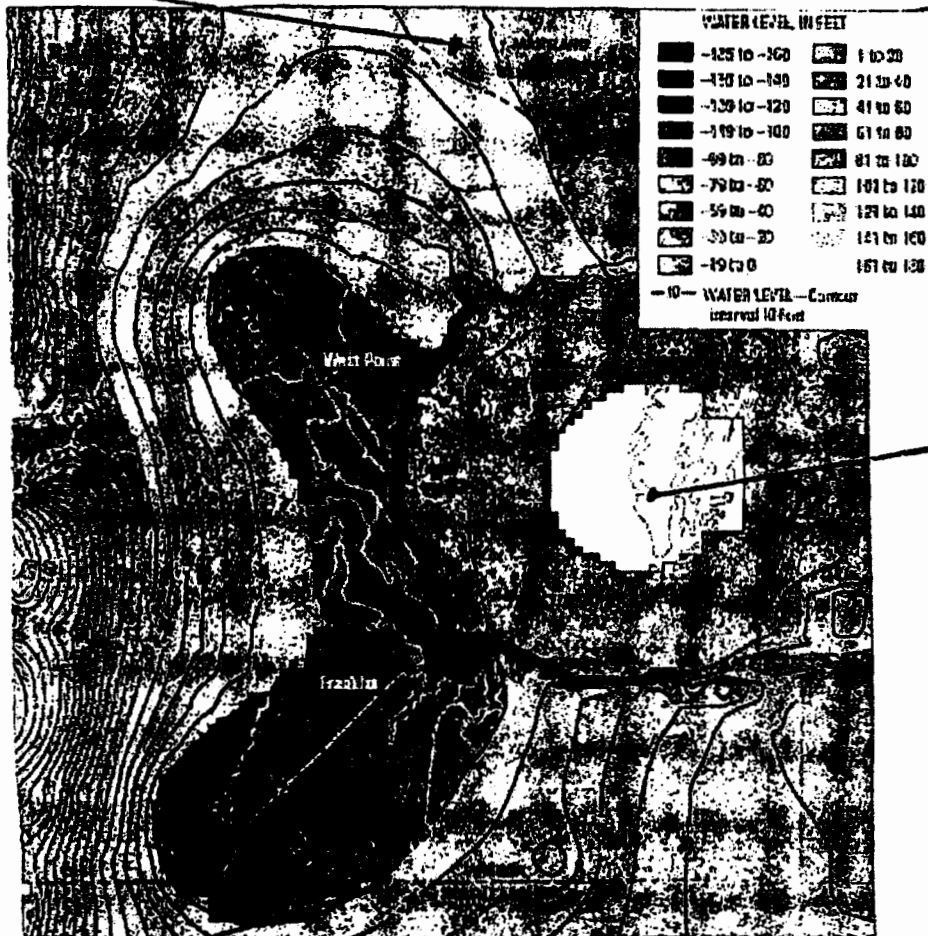
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- \* USGS in current documentation defines only two strata choosing not to distinguish between the "middle" and "lower" due to the porosity between the two. However, the specific gravity of "salt" water is higher than "fresh" water and the salt settles to the bottom of any confinement area. All injection of reuse water into the aquifer suggested in this text would be into the lowest non-potable salt layer.

Figure #1 --- CONES OF DEPRESSION

Lowered groundwater levels, resulting from industrial use by paper mills at Franklin and West Point which create intersecting cones of depression extending from the North Carolina border to Maryland

Maryland



Chesapeake Bay Impact Crater

North Carolina Line

USGS Simulation of Groundwater Flow in the Coastal Plain Aquifer System of Virginia - Prepared in cooperation with the Hampton Roads Planning District Commission

## ATTACHMENT 1 - SUMMARY

DESCRIPTION	COST	NUTRIENT REDUCTION (IN LBS./YR)	SAVINGS (BASED ON \$250/POUND)	NET (COST) OR SAVINGS	REMARKS
20 MM gal/day REUSE Water to West Point Paper Mill	\$120 Million	330,000	\$82.5 million	(\$37.5 Million)	Based on using reuse water from Yorktown and Williamsburg with 5 mg/L nutrients
15 MM gal/day REUSE water to Franklin Paper Mill	\$100 Million	495,000	\$0	(\$100 Million)	No credit for nutrient reduction in Lower James River
50 MM gal/day REUSE recharge water to the cone of depression at West Point	\$120 Million	1,320,000	\$330 Million	\$210 Million	Water from lower Richmond waste treatment plant with 8 mg/L nutrients
50 MM gal/day REUSE recharge water to the cone of depression at Franklin	\$150 Million	1,320,000	\$330 Million	\$180 Million	Water from Middle Coastal - currently discharging into Chesapeake Bay with 8 mg/L
Pump REUSE with hydraulic clay to plug salt intrusion from Chesapeake Bay Crater	\$100 Million (rough estimate only)	0	0	(\$100 Million)	Method used in Orange County and San Diego region of California

**TOTALS**

**\$590 Million**

**3,465,000**

**\$742.5 Million**

**\$152.5 Million**

**If all of the above are completed:**

- \* A predicted \$150 Million savings is expected
- \* Direct withdrawals from the Aquifer will drop by 35 MM gal/day
- \* Aquifer cones of depression will be recharged by 100 MM gal/day
- \* Salt intrusion abated
- \* Nutrients entering the Bay are reduced by 3.5 MM lbs/yr

Matthew L. Walker  
County Administrator



Marcia Jones  
Assistant Administrator

**County of Middlesex**  
**OFFICE OF THE COUNTY ADMINISTRATOR**

**RESOLUTION**

**Urging our Governor, our Secretary of Natural Resources, the Director of Virginia Department of Environmental Quality (DEQ), our Senator and our Delegate to save our potable water supply by sensible reuse of water for agricultural and industrial purposes, while lowering the total load of nutrients reaching the Chesapeake Bay**

WHEREAS, DEQ has determined that the Potomac Aquifer that provides the potable water for ninety percent of the citizens of the Virginia Coastal Plain is losing artesian head pressure at an unsustainable rate, and

WHEREAS, as the artesian level drops, salt water from the Chesapeake Bay back flows into the aquifer contaminating wells in Middlesex County and surrounding counties to the extent that the salt in many of these wells now exceeds the Environmental Protection Agency's (EPA) limit, and

WHEREAS, Middlesex County needs at this time to provide an alternative potable water source and infrastructure for the health and safety of our citizens in certain areas of our County, and

WHEREAS, DEQ now estimates that the entire Potomac Aquifer will be depleted by 2050 unless the demand is reduced by 40 million gallons per day, and

WHEREAS, infrastructure and operating costs of providing an alternative potable water source will cost each homeowner in the contaminated area of Middlesex County an additional eight hundred dollars each year, and by extension complete failure of the Potomac Aquifer would cost the Commonwealth nearly four hundred million dollars each year in today's money, and

WHEREAS, one possible solution is available for a one time cost of about 250 million dollars, by which the Commonwealth could replace 40 million gallons per day demand on the Potomac Aquifer with treated wastewater (reuse) piped to two



*exempt b*

Degree in geology from Lafayette College and a Ph.D. in geology from The University of Rochester in 1964, Degenstein Chair in Environmental Science - Susquehanna University. Held positions with the N.Y. State Museum and Science Service, and the Pennsylvania Geologic Survey and was President and Principal Geologist of EnvironMetrics, Inc., Fellow of the Geological Society of America and a past licensed Professional Geologist, national councilor with the Council of Undergraduate Research, member of the Pennsylvania Board of Professional Engineers, Land Surveyors, and Geologists, Dr. Fletcher is the author of the textbook Basic Hydrogeologic Methods.

*exempt b*

Former Chairman, State Water Commission, and Former Chairman, House of Delegates Committee on Agriculture, Chesapeake and Water Resources

*exempt b*

BS Mechanical Engineering from Virginia Tech - AS Electronics - 29 US and 6 Foreign Patents Worked for E.I. DuPont, Celanese Fibers, Anheuser Busch, Hoechst Fibers and Allied Chemical Corp.

*exempt b*

Middlesex Water Authority, R&D Manager (Retired) General Electric for chemistry, engineering and material science, with experience in development of membrane systems for water and wastewater systems.

*exempt b*

A graduate of Notre Dame, in Civil Engineering with 40 years experience in planning, design and construction of municipal and industrial water and wastewater facilities. MS Business Administration from Robert Morris University. Registered P.E. in 10 states. Currently president of Progress Engineers, PC.



**County of Middlesex**  
**BOARD OF SUPERVISORS**

AT A REGULAR MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS, HELD ON TUESDAY, SEPTEMBER 3, 2013, AT 3:00 P.M. IN THE BOARD ROOM IN THE HISTORIC COURTHOUSE, SALUDA, VIRGINIA: ON A MOTION DULY MADE BY: *Exempt* AND SECONDED BY: *Exempt*, THE FOLLOWING RESOLUTION WAS ADOPTED BY THE FOLLOWING VOTE:

*Exempt*  
*Exempt*  
*Exempt*

aye  
aye  
aye  
aye  
aye

A RESOLUTION REQUESTING THAT THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY TAKE PROACTIVE MEASURES TO RESTORE ARTESIAN HEAD PRESSURE AND REDUCE HIGH CHLORIDE CONCENTRATIONS IN THE POTOMAC ACQUIFER.

WHEREAS, Middlesex County is included in a 3000 square mile area which overlays the Potomac Aquifer and is adjacent to a fracture line of said aquifer known as the Chesapeake Bay Crater; and

WHEREAS, the United States Geological Survey Map 1873 published in 2006 has shown that more than forty percent of the test wells in said area have chloride concentrations (salt) above 250 milligrams per liter (mg/l); and

WHEREAS the United States Environmental Protection Agency has set a maximum chloride concentration (salt) of 250 mg/l for potable (drinking water); and

WHEREAS, the Virginia Department of Environmental Quality (DEQ) has published information that states "The groundwater in four counties (including Middlesex County, Virginia) have evidence of high chloride (salt) concentration"; and

WHEREAS, DEQ is charged by the General Assembly to manage the safety of Virginia's water supplies for the protection of the citizens of Virginia from pollution in said water supplies; and

industrial locations, and concurrently reduce the nutrient load in the Chesapeake Bay by nearly a million pounds a year, and

WHEREAS, returning the withdrawals from the Potomac Aquifer to 70 to 80 million gallons per day as suggested by DEQ's Director of Water Resources will stabilize the aquifer, it will not provide for future economic development in Virginia's Coastal Plain, and

WHEREAS, one proven solution to provide for growth in areas of limited water resources is the productive reuse of waste water, and

WHEREAS, this solution also eliminates pollutants such as nutrients from entering the Chesapeake Bay, and

WHEREAS, current waste water reuse regulations limit the economic viability of productive reuse of waste water, therefore

BE IT RESOLVED that our General Assembly immediately consider all appropriate measures to save the Potomac Aquifer and assure a sensible, economically viable reuse of our water resources for both agricultural and industrial purposes, thereby ensuring a stable supply of potable water for the protection of the health and welfare of the citizens of our Commonwealth, and

BE IT RESOLVED FURTHER that the Middlesex Board of Supervisors shall transmit copies of this resolution to the Honorable Terence R. McAuliffe, Governor of the Commonwealth of Virginia and the members of the Virginia General Assembly and others so noted above that they may be apprised of the sense of the Middlesex County Board of Supervisors in this matter.

*exempt*  
*exempt*  
*exempt*

nay  
aye  
aye  
nay  
aye

#### **CERTIFICATION**

I, *exempt* Deputy Clerk of the Board of Supervisors of the County of Middlesex, Virginia, certify that the foregoing is a true and correct copy of a resolution passed at a lawfully organized meeting of the Board of Supervisors of Middlesex County held at Saluda, Virginia, at 3:00 p.m. on May 6, 2014

*exempt*  
*exempt*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

APR 14 2015

The Honorable Tim Kaine  
United States Senator  
388 Russell Senate Office Building  
Washington, D.C. 20510

Dear Senator Kaine:

Thank you for your letter of January 27, 2015 to the U.S. Environmental Protection Agency (EPA) on behalf of Middlesex County Administrator *Ken [unclear]* regarding the Potomac Aquifer.

We have reviewed the questions posed by the Middlesex County Board of Supervisors and have determined that these questions are most appropriately answered by the U.S. Geological Survey (USGS). EPA staff has coordinated with your office staff and with the USGS. EPA has been informed that a response from the USGS is pending to your office. Your office may contact Mr. Tim West, USGS's Congressional Affairs Officer, at [twest@usgs.gov](mailto:twest@usgs.gov), or at (703) 648-4455 for additional information and response status.

If you have any questions, please do not hesitate to contact me or have your staff contact Mr. Matthew Colip, EPA's Virginia Liaison, at (215) 814-5439.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn M. Garvin".

Shawn M. Garvin  
Regional Administrator

cc: Mr. Tim West, Office of Congressional Affairs, USGS



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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**MAY 22 2015**

OFFICE OF  
AIR AND RADIATION

The Honorable Barbara Boxer  
Ranking Member  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

Dear Senator Boxer:

Thank you for your letters of February 10, 2015, and April 23, 2015, regarding the Renewable Fuel Standard (RFS) program.

Under the Clean Air Act, as amended by the Energy Independence and Security Act of 2007, the U.S. Environmental Protection Agency is required to set annual standards for the RFS program each year. In November 2013, the EPA proposed to establish the annual percentage standards for cellulosic, biomass-based diesel, advanced biofuel, and total renewable fuels that apply to gasoline and diesel produced or imported in the year 2014. In proposing the 2014 RFS standards, the EPA sought to advance the broader goal of the RFS program to spur long-term growth in renewable fuels, while taking account of the need to overcome the constraints that exist in the market and fuel system today.

That proposal generated a significant number of comments and diverging views, particularly on the proposal's ability to ensure continued progress toward achieving the law's renewable fuel targets. The EPA, in consultation with other federal agencies, evaluated these issues in light of the purposes of the statute and the Administration's commitment to its goals. Ultimately, we decided that we would not be able to finalize the 2014 volume standards before the end of 2014, a decision we announced last November.

I recognize the delay in issuing the RFS standards has exacerbated uncertainty in the market for both renewable fuel producers and obligated parties, and I am committed to getting this program back on track. To that effect, we intend to complete rulemakings for 2014, 2015 and 2016 for all the RFS standards in 2015. We will also propose and finalize biomass-based diesel standards for 2017. To accomplish these goals, we intend to issue a proposed rule by June 1, 2015, and to finalize the rule by November 30, 2015. The proposal will be out very soon. We look forward to briefing you and your staff on it promptly, and to your comments.

Again, thank you for your letter. If you have further questions or concerns, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at [haman.patricia@epa.gov](mailto:haman.patricia@epa.gov) or (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe", with a stylized flourish at the end.

Janet G. McCabe  
Acting Assistant Administrator

AL-15-000-5160

TIM KAINE  
VIRGINIA

WASHINGTON OFFICE

WASHINGTON, DC 20510 4607  
(202) 224-4924

COMMITTEE ON  
ARMED SERVICES

COMMITTEE ON  
FOREIGN RELATIONS

COMMITTEE ON  
THE BUDGET

## United States Senate

WASHINGTON, DC 20510 4607

January 27, 2015

Ms. Laura Vaught  
Associate Administrator for Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Ms. Vaught:

I have recently been contacted by *exempt* student from Reston, Virginia. Attached please find a copy of that correspondence. I would appreciate it if you could look into this matter and provide me with an appropriate response. Thank you.

Sincerely,

  
Tim Kaine

Hi, my name is *example* and for the past few weeks I have been working on a project about Brominated Vegetable Oil (BVO), and the dangerous effects it can have on humans. In my research I came across a case that stumped doctors. A man came to the ER with headaches, fatigue, a loss of muscle coordination, and memory, he even lost the ability to walk. A blood test found high levels of bromine. After doctors questioned the man, they found that he had been drinking between 2 and 4 liters of soda containing BVO everyday.

During my research I have also found that BVO has been known to cause skin rashes, severe acne, stomach pain, fatigue, a metallic taste in the mouth, and cardiac arrhythmia. Given the medical and psychological research on the dangers BVO has on humans and the amount of research supporting this, my question is, why is BVO still being used?

During my research, I have also discovered BVO is banned in 100 countries. It has been replaced with other substances such as sucrose acetate isobutyrate, why is it not being replaced in the United States? I feel as though the FDA has not taken into account the new studies and reports that have emerged since the 1970's (the last time they did research on BVO) and has not reevaluated the safety of BVO since then.

I am writing you this letter to hopefully get some of my questions answered and to get a better understanding on why brominated vegetable oil is still being used in the United States. Thank you for your time and I hope to hear back from you soon.

Sincerely,

*example*

*example*

*example*



AL-15-000-676

BETTY McCOLLUM  
4TH DISTRICT, MINNESOTA

2256 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-6631  
FAX: (202) 225-1968

165 WESTERN AVENUE NORTH  
SUITE 17  
ST. PAUL, MN 55102  
(651) 224-9191  
FAX: (651) 224-3056

[www.house.gov/mccollum](http://www.house.gov/mccollum)



UNITED STATES  
HOUSE OF REPRESENTATIVES

COMMITTEE ON APPROPRIATIONS

RANKING MEMBER,  
SUBCOMMITTEE ON INTERIOR,  
ENVIRONMENT, AND RELATED AGENCIES  
SUBCOMMITTEE ON DEFENSE  
SUBCOMMITTEE ON LEGISLATIVE BRANCH

CONGRESSIONAL  
GLOBAL HEALTH CAUCUS,  
CO-FOUNDER

CONGRESSIONAL  
NATIVE AMERICAN CAUCUS,  
CO-CHAIR

March 4, 2015

Hon. Gina A. McCarthy  
Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator McCarthy:

Your recent appearance before the House Interior-Environment Appropriations Subcommittee to testify on President Obama's fiscal year 2016 budget for the EPA was very much appreciated. Please know I will do all that I can to support the budget request in the face of this difficult fiscal and political environment.

During our hearing I made a statement regarding EPA's relationship with tribal governments. I view the government-to-government relationship between the federal government and sovereign tribal nations as a critical consideration to any agency's policy making function.

In Minnesota, we have eleven sovereign tribal nations and for those tribes located in northern areas of the state wild rice is a traditional crop with important economic, spiritual, and cultural significance. Unfortunately, proposed copper-nickel mining operations have a very high potential to contaminate waters where wild rice production exists.

I am well aware that the State of Minnesota is exploring lowering water quality standards related to wild rice to accommodate mining interests. This is of great concern to me. All wild rice within the boundaries of Indian reservations is managed by the respective tribal nation. The EPA needs to be aware that in the 1854 Ceded Territory, the Bois Forte, Grand Portage, and Fond du Lac nations have guaranteed treaty rights to gather and manage wild rice within their own boundaries.

Let me be clear, without full consultation and the final consent of impacted tribal nations, the EPA should never consider any request to lower Minnesota's water quality standards for wild rice. It would be my view that rather than contemplating lower water quality standards, the EPA should instead be promulgating a rule protecting wild rice water quality across the entire Great Lakes basin where the potential for mining threatens tribal production.

Honoring and respecting treaty rights with sovereign tribal nations is a priority of the Obama Administration and our appropriations subcommittee. I look forward to ensuring that treaty rights regarding the production of wild rice are respected and protected.

Sincerely,

A handwritten signature in black ink, appearing to read "Betty McCormack", written in a cursive style.

Betty McCormack  
Member of Congress



United States Environmental Protection Agency  
Regional Administrator  
Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604-3590

AL-15-000-6176

APR 02 2015

The Honorable Betty McCollum  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congresswoman McCollum:

Thank you for your March 4, 2015 letter urging full consultation with tribes regarding possible changes to Minnesota's water quality standard for wild rice waters.

If the Minnesota Pollution Control Agency adopts and submits a new water quality rule for wild rice waters, the U.S. Environmental Protection Agency will review the new rule and will include formal consultation with the tribes as part of the review process. The EPA policy on consultation and coordination with Indian Tribes is available at:

<http://www.epa.gov/tribalportal/consultation/consult-policy.htm>.

Again, thank you for your letter. If you have further questions, please call me, or your staff may contact Eileen Deamer or Ronna Beckmann, the Region 5 Congressional Liaisons, at (312) 886-3000.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Hedman", is written over a horizontal line.

Susan Hedman  
Regional Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 15 2015

OFFICE OF THE  
CHIEF FINANCIAL OFFICER

The Honorable Kenneth Calvert  
Chairman, Subcommittee on Interior,  
Environment and Related Agencies  
Committee on Appropriations  
House of Representatives  
Washington, D.C. 20515

Dear Chairman Calvert:

I am pleased to submit the U.S. Environmental Protection Agency's (EPA) Fiscal Year 2015 Enacted Operating Plan. This Operating Plan meets the program area levels provided in the explanatory statement accompanying the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235).

The enclosure shows the FY 2015 Operating Plan by Account, Program Area and Program Project. We look forward to working with you and your staff on the FY 2016 budget and ensuring that adequate funding is provided for salary-intense programs which have faced significant management challenges due to trends in the balance of pay and non-pay within the baseline in recent years, such as enforcement.

I would be pleased to answer any questions that you or your staff may have and look forward to working with you and the Subcommittee on the Agency's budget.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. Bloom", with a long horizontal line extending to the right.

David A. Bloom  
Acting Chief Financial Officer

Enclosure

**FY 2015 Enacted Operating Plan for Environmental Protection Agency**

*dollars in thousands*

Fund		Program/Project	FY 15 Enacted Operating Plan
EPM	Brownfields	Brownfields	\$25,593
EPM	Clean Air and Climate	Clean Air Allowance Trading Programs	\$18,231
EPM	Clean Air and Climate	Climate Protection Program	\$95,436
EPM	Clean Air and Climate	Federal Stationary Source Regulations	\$25,000
EPM	Clean Air and Climate	Federal Support for Air Quality Management	\$120,572
EPM	Clean Air and Climate	Stratospheric Ozone: Domestic Programs	\$4,941
EPM	Clean Air and Climate	Stratospheric Ozone: Multilateral Fund	\$8,928
EPM	Compliance	Compliance Monitoring	\$101,665
EPM	Enforcement	Civil Enforcement	\$170,854
EPM	Enforcement	Criminal Enforcement	\$46,745
EPM	Enforcement	Environmental Justice	\$6,737
EPM	Enforcement	NEPA Implementation	\$16,301
EPM	Environmental Protection / National Priorities	Water Quality Research and Support Grants	\$12,700
EPM	Geographic Programs	Geographic Program: Chesapeake Bay	\$73,000
EPM	Geographic Programs	Geographic Program: Gulf of Mexico	\$4,482
EPM	Geographic Programs	Geographic Program: Lake Champlain	\$4,399
EPM	Geographic Programs	Geographic Program: Long Island Sound	\$3,940
EPM	Geographic Programs	Lake Pontchartrain	\$948
EPM	Geographic Programs	Southern New England Estuary (SNEE)	\$5,000
EPM	Geographic Programs	Geographic Program: Other	\$1,445
EPM	Geographic Programs	Great Lakes Restoration	\$300,000
EPM	Geographic Programs	Geographic Program: South Florida	\$1,704
EPM	Geographic Programs	Geographic Program: San Francisco Bay	\$4,819
EPM	Geographic Programs	Geographic Program: Puget Sound	\$28,000
EPM	Homeland Security	Homeland Security: Communication and Information	\$3,771
EPM	Homeland Security	Homeland Security: Critical Infrastructure Protection	\$964
EPM	Homeland Security	Homeland Security: Protection of EPA Personnel and Infrastructure	\$5,460
EPM	Indoor Air and Radiation	Indoor Air: Radon Program	\$3,055
EPM	Indoor Air and Radiation	Radiation: Protection	\$8,576
EPM	Indoor Air and Radiation	Radiation: Response Preparedness	\$2,454
EPM	Indoor Air and Radiation	Reduce Risks from Indoor Air	\$13,552
EPM	Information Exchange / Outreach	State and Local Prevention and Preparedness	\$15,666
EPM	Information Exchange / Outreach	TRI / Right to Know	\$14,616
EPM	Information Exchange / Outreach	Tribal - Capacity Building	\$14,063
EPM	Information Exchange / Outreach	Executive Management and Operations	\$46,276
EPM	Information Exchange / Outreach	Environmental Education	\$8,702
EPM	Information Exchange / Outreach	Exchange Network	\$16,995
EPM	Information Exchange / Outreach	Small Minority Business Assistance	\$1,641
EPM	Information Exchange / Outreach	Small Business Ombudsman	\$2,031
EPM	Information Exchange / Outreach	Children and Other Sensitive Populations: Agency Coordination	\$6,548
EPM	International Programs	US Mexico Border	\$2,978
EPM	International Programs	International Sources of Pollution	\$6,938
EPM	International Programs	Trade and Governance	\$5,484
EPM	IT / Data Management / Security	Information Security	\$6,309
EPM	IT / Data Management / Security	IT / Data Management	\$84,227
EPM	Legal / Science / Regulatory / Economic Review	Integrated Environmental Strategies	\$12,724
EPM	Legal / Science / Regulatory / Economic Review	Administrative Law	\$5,120
EPM	Legal / Science / Regulatory / Economic Review	Alternative Dispute Resolution	\$1,397
EPM	Legal / Science / Regulatory / Economic Review	Civil Rights / Title VI Compliance	\$11,070
EPM	Legal / Science / Regulatory / Economic Review	Legal Advice: Environmental Program	\$42,027
EPM	Legal / Science / Regulatory / Economic Review	Legal Advice: Support Program	\$16,907
EPM	Legal / Science / Regulatory / Economic Review	Regional Science and Technology	\$2,176
EPM	Legal / Science / Regulatory / Economic Review	Science Advisory Board	\$5,110
EPM	Legal / Science / Regulatory / Economic Review	Regulatory/Economic Management and Analysis	\$14,883
EPM	Underground Storage Tanks (LUST / UST)	LUST / UST	\$11,295
EPM	Operations and Administration	Central Planning, Budgeting, and Finance	\$72,851
EPM	Operations and Administration	Facilities Infrastructure and Operations	\$310,399
EPM	Operations and Administration	Acquisition Management	\$30,761
EPM	Operations and Administration	Human Resources Management	\$43,843
EPM	Operations and Administration	Financial Assistance Grants / IAG Management	\$24,897
EPM	Pesticides Licensing	Science Policy and Biotechnology	\$1,400
EPM	Pesticides Licensing	Pesticides: Protect Human Health from Pesticide Risk	\$55,698
EPM	Pesticides Licensing	Pesticides: Protect the Environment from Pesticide Risk	\$35,470

Fund	Program/Title	Program/Project	FY 15 Enacted Operating Plan
EPM	Pesticides Licensing	Pesticides: Realize the Value of Pesticide Availability	\$9,795
EPM	Resource Conservation and Recovery Act (RCRA)	RCRA: Corrective Action	\$36,438
EPM	Resource Conservation and Recovery Act (RCRA)	RCRA: Waste Management	\$59,958
EPM	Resource Conservation and Recovery Act (RCRA)	RCRA: Waste Minimization & Recycling	\$8,481
EPM	Toxics Risk Review and Prevention	Endocrine Disruptors	\$7,553
EPM	Toxics Risk Review and Prevention	Pollution Prevention Program	\$13,114
EPM	Toxics Risk Review and Prevention	Toxic Substances: Chemical Risk Review and Reduction	\$58,135
EPM	Toxics Risk Review and Prevention	Toxic Substances: Lead Risk Reduction Program	\$13,719
EPM	Water: Ecosystems	National Estuary Program / Coastal Waterways	\$26,723
EPM	Water: Ecosystems	Wetlands	\$21,065
EPM	Water: Human Health Protection	Beach / Fish Programs	\$2,015
EPM	Water: Human Health Protection	Drinking Water Programs	\$96,492
EPM	Water Quality Protection	Marine Pollution	\$10,628
EPM	Water Quality Protection	Surface Water Protection	\$199,789
S&T	Clean Air and Climate	Clean Air Allowance Trading Programs	\$8,298
S&T	Clean Air and Climate	Climate Protection Program	\$8,018
S&T	Clean Air and Climate	Federal Support for Air Quality Management	\$6,923
S&T	Clean Air and Climate	Federal Vehicle and Fuels Standards and Certification	\$93,302
S&T	Enforcement	Forensics Support	\$13,669
S&T	Environmental Protection / National Priorities	Water Quality Research and Support Grants	\$4,100
S&T	Homeland Security	Homeland Security: Critical Infrastructure Protection	\$10,324
S&T	Homeland Security	Homeland Security: Preparedness, Response, and Recovery	\$26,256
S&T	Homeland Security	Homeland Security: Protection of EPA Personnel and Infrastructure	\$542
S&T	Indoor Air and Radiation	Indoor Air: Radon Program	\$198
S&T	Indoor Air and Radiation	Radiation: Protection	\$1,984
S&T	Indoor Air and Radiation	Radiation: Response Preparedness	\$3,526
S&T	Indoor Air and Radiation	Reduce Risks from Indoor Air	\$289
S&T	IT / Data Management / Security	IT / Data Management	\$3,089
S&T	Operations and Administration	Facilities Infrastructure and Operations	\$68,339
S&T	Pesticides Licensing	Pesticides: Protect Human Health from Pesticide Risk	\$3,197
S&T	Pesticides Licensing	Pesticides: Protect the Environment from Pesticide Risk	\$2,316
S&T	Pesticides Licensing	Pesticides: Realize the Value of Pesticide Availability	\$514
S&T	Research: Air, Climate and Energy	Research: Air, Climate and Energy	\$91,906
S&T	Research: Chemical Safety and Sustainability	Human Health Risk Assessment	\$39,423
S&T	Research: Chemical Safety and Sustainability	Research: Chemical Safety and Sustainability	\$87,507
S&T	Research: Sustainable Communities	Research: Sustainable and Healthy Communities	\$149,975
S&T	Research: Safe and Sustainable Water Resources	Research: Safe and Sustainable Water Resources	\$107,434
S&T	Water: Human Health Protection	Drinking Water Programs	\$3,519
B&F	Homeland Security	Homeland Security: Protection of EPA Personnel and Infrastructure	\$6,676
B&F	Operations and Administration	Facilities Infrastructure and Operations	\$35,641
STAG	Categorical Grants	Categorical Grant: Nonpoint Source (Sec. 319)	\$159,252
STAG	Categorical Grants	Categorical Grant: Public Water System Supervision (PWSS)	\$101,963
STAG	Categorical Grants	Categorical Grant: State and Local Air Quality Management	\$228,219
STAG	Categorical Grants	Categorical Grant: Radon	\$8,051
STAG	Categorical Grants	Categorical Grant: Pollution Control (Sec. 106)	\$230,806
STAG	Categorical Grants	Categorical Grant: Wetlands Program Development	\$14,661
STAG	Categorical Grants	Categorical Grant: Underground Injection Control (UIC)	\$10,506
STAG	Categorical Grants	Categorical Grant: Pesticides Program Implementation	\$12,701
STAG	Categorical Grants	Categorical Grant: Lead	\$14,049
STAG	Categorical Grants	Categorical Grant: Hazardous Waste Financial Assistance	\$99,693
STAG	Categorical Grants	Categorical Grant: Pesticides Enforcement	\$18,050
STAG	Categorical Grants	Categorical Grant: Pollution Prevention	\$4,765
STAG	Categorical Grants	Categorical Grant: Toxic Substances Compliance	\$4,919
STAG	Categorical Grants	Categorical Grant: Tribal General Assistance Program	\$65,476
STAG	Categorical Grants	Categorical Grant: Underground Storage Tanks	\$1,498
STAG	Categorical Grants	Categorical Grant: Tribal Air Quality Management	\$12,829
STAG	Categorical Grants	Categorical Grant: Environmental Information	\$9,646
STAG	Categorical Grants	Categorical Grant: Beaches Protection	\$9,549
STAG	Categorical Grants	Categorical Grant: Brownfields	\$47,745
STAG	State and Tribal Assistance Grants (STAG)	Infrastructure Assistance: Clean Water SRF	\$1,448,887
STAG	State and Tribal Assistance Grants (STAG)	Infrastructure Assistance: Drinking Water SRF	\$906,896
STAG	State and Tribal Assistance Grants (STAG)	Infrastructure Assistance: Alaska Native Villages	\$10,000
STAG	State and Tribal Assistance Grants (STAG)	Brownfields Projects	\$80,000
STAG	State and Tribal Assistance Grants (STAG)	Infrastructure Assistance: Mexico Border	\$5,000
STAG	State and Tribal Assistance Grants (STAG)	Diesel Emissions Reduction Grant Program	\$30,000

			2015
STAG	State and Tribal Assistance Grants (STAG)	Targeted Airshed Grants	\$10,000
LUST	Enforcement	Civil Enforcement	\$620
LUST	Underground Storage Tanks (LUST / UST)	LUST / UST	\$9,240
LUST	Underground Storage Tanks (LUST / UST)	LUST Cooperative Agreements	\$55,040
LUST	Underground Storage Tanks (LUST / UST)	LUST Prevention	\$25,369
LUST	Operations and Administration	Central Planning, Budgeting, and Finance	\$421
LUST	Operations and Administration	Facilities Infrastructure and Operations	\$792
LUST	Operations and Administration	Acquisition Management	\$139
LUST	Research: Sustainable Communities	Research: Sustainable and Healthy Communities	\$320
OIL	Compliance	Compliance Monitoring	\$139
OIL	Enforcement	Civil Enforcement	\$2,413
OIL	Operations and Administration	Facilities Infrastructure and Operations	\$584
OIL	Oil	Oil Spill: Prevention, Preparedness and Response	\$14,409
OIL	Research: Sustainable Communities	Research: Sustainable and Healthy Communities	\$664
eMani	Resource Conservation and Recovery Act (RCRA)	RCRA: Waste Management	\$3,674
IG	Audits, Evaluations, and Investigations	Audits, Evaluations, and Investigations	\$41,489
SF	Compliance	Compliance Monitoring	\$995
SF	Enforcement	Criminal Enforcement	\$7,243
SF	Enforcement	Environmental Justice	\$581
SF	Enforcement	Forensics Support	\$1,083
SF	Enforcement	Superfund: Enforcement	\$150,257
SF	Enforcement	Superfund: Federal Facilities Enforcement	\$7,211
SF	Homeland Security	Homeland Security: Preparedness, Response, and Recovery	\$33,290
SF	Homeland Security	Homeland Security: Protection of EPA Personnel and Infrastructure	\$1,097
SF	Indoor Air and Radiation	Radiation: Protection	\$1,985
SF	Information Exchange / Outreach	Exchange Network	\$1,328
SF	IT / Data Management / Security	Information Security	\$683
SF	IT / Data Management / Security	IT / Data Management	\$13,802
SF	Legal / Science / Regulatory / Economic Review	Alternative Dispute Resolution	\$750
SF	Legal / Science / Regulatory / Economic Review	Legal Advice: Environmental Program	\$503
SF	Operations and Administration	Central Planning, Budgeting, and Finance	\$22,352
SF	Operations and Administration	Facilities Infrastructure and Operations	\$75,055
SF	Operations and Administration	Acquisition Management	\$21,989
SF	Operations and Administration	Human Resources Management	\$5,984
SF	Operations and Administration	Financial Assistance Grants / IAG Management	\$2,725
SF	Superfund Cleanup	Superfund: Emergency Response and Removal	\$181,306
SF	Superfund Cleanup	Superfund: EPA Emergency Preparedness	\$7,636
SF	Superfund Cleanup	Superfund: Federal Facilities	\$21,125
SF	Superfund Cleanup	Superfund: Remedial	\$501,000
IG-SF	Audits, Evaluations, and Investigations	Audits, Evaluations, and Investigations	\$9,939
S&T-SF	Homeland Security	Homeland Security: Preparedness, Response, and Recovery	\$1,975
S&T-SF	Research: Chemical Safety and Sustainability	Human Health Risk Assessment	\$2,843
S&T-SF	Research: Sustainable Communities	Research: Sustainable and Healthy Communities	\$14,032
S&T Reir	Indoor Air and Radiation	Radiation: Protection	\$0
FIFRA	Pesticides Licensing	Pesticides: Protect Human Health from Pesticide Risk	\$0
FIFRA	Pesticides Licensing	Pesticides: Protect the Environment from Pesticide Risk	\$0
FIFRA	Pesticides Licensing	Pesticides: Realize the Value of Pesticide Availability	\$0
SF Reimi	Superfund Cleanup	Base Realignment and Closure (BRAC)	\$0
SF Reimi	Superfund Cleanup	Superfund: Federal Facilities	\$0
WCF	Homeland Security	Homeland Security: Protection of EPA Personnel and Infrastructure	\$0
WCF	Information Exchange / Outreach	Executive Management and Operations	\$0
WCF	IT / Data Management / Security	IT / Data Management	\$0
WCF	Operations and Administration	Central Planning, Budgeting, and Finance	\$0
WCF	Operations and Administration	Facilities Infrastructure and Operations	\$0
STAG	Not Specified	Not Specified	\$540,000

AL-15-000-5781

SHELDON WHITEHOUSE  
RHODE ISLAND



## United States Senate

WASHINGTON, D. C. 20510 - 3905

February 26, 2015

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Dear Administrator McCarthy:

I recently sent you a letter with several of my colleagues expressing concern about EPA's continuing delays in issuing biodiesel standards under the Renewable Fuel Standard. As you know, these standards are critical to small businesses like Newport Biodiesel in Rhode Island, which are creating good, green jobs by producing fuels that reduce greenhouse gas emissions. EPA's delay in issuing the biodiesel standards, combined with its recent decision to allow Argentinian biodiesel under the RFS, is threatening to put companies like Newport Biodiesel out of business and to undermine progress in developing cleaner transportation fuels.

I urge you to move quickly to issue biodiesel standards that support the continued growth of domestic biodiesel as I would prefer to have more positive topics to discuss with you at the EPW hearing next week.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheldon".

Sheldon Whitehouse  
United States Senator





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**MAY 22 2015**

OFFICE OF  
AIR AND RADIATION

The Honorable Sheldon Whitehouse  
United States Senate  
Washington, D.C. 20510

Dear Senator Whitehouse:

Thank you for your letter of February 26, 2015, regarding the Renewable Fuel Standard (RFS) program.

Under the Clean Air Act, as amended by the Energy Independence and Security Act of 2007, the U.S. Environmental Protection Agency is required to set annual standards for the RFS program each year. In November 2013, the EPA proposed to establish the annual percentage standards for cellulosic, biomass-based diesel, advanced biofuel, and total renewable fuels that apply to gasoline and diesel produced or imported in the year 2014. In proposing the 2014 RFS standards, the EPA sought to advance the broader goal of the RFS program to spur long-term growth in renewable fuels, while taking account of the need to overcome the constraints that exist in the market and fuel system today.

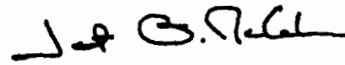
That proposal generated a significant number of comments and diverging views, particularly on the proposal's ability to ensure continued progress toward achieving the law's renewable fuel targets. The EPA, in consultation with other federal agencies, evaluated these issues in light of the purposes of the statute and the Administration's commitment to its goals. Ultimately, we decided that we would not be able to finalize the 2014 volume standards before the end of 2014, a decision we announced last November.

I recognize the delay in issuing the RFS standards has exacerbated uncertainty in the market for both renewable fuel producers and obligated parties, and I am committed to getting this program back on track. To that effect, we intend to complete rulemakings for 2014, 2015 and 2016 for all the RFS standards in 2015. We will also propose and finalize biomass-based diesel standards for 2017. To accomplish these goals, we intend to issue a proposed rule by June 1, 2015, and to finalize the rule by November 30, 2015. The proposal will be out very soon. We look forward to briefing you and your staff on it promptly, and to your comments.

With regard to the approval of the alternative renewable biomass tracking program submitted by CARBIO (Camara Argentina de Biocombustibles, or the Argentine Chamber of Biofuels), the EPA's RFS regulations allow biofuel producers, both domestic and foreign, to request the EPA's approval of such plans under 40 CFR 80.1454(h). These regulations were established as part of the RFS program following a public notice and comment process. After a thorough review of CARBIO's alternative tracking program, on January 27, 2015, the agency determined that the CARBIO program meets the agency's stringent requirements. This determination and the regulation mentioned above are each the subject of pending litigation.

Again, thank you for your letter. If you have further questions or concerns, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at [haman.patricia@epa.gov](mailto:haman.patricia@epa.gov) or (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe", with a stylized flourish at the end.

Janet G. McCabe  
Acting Assistant Administrator

AL-15-000-4374

SHELDON WHITEHOUSE  
RHODE ISLAND

COMMITTEE  
ASSNS  
BUDGET

ENVIRONMENT AND PUBLIC WORKS  
HEALTH EDUCATION LABOR AND EXTENSIONS  
JANUARY

## United States Senate

WASHINGTON, DC 20510-3905

http://www.senate.gov

2015 JAN 15  
11:00 AM EST

125 W. MOUNTAIN STREET, 11TH FLOOR  
PHILADELPHIA, PA 19106  
(215) 565-1234

January 15, 2015

The Honorable Ernest Moniz  
Secretary  
Department of Energy  
1000 Independence Avenue SW  
Washington, DC 20585

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460


Dear Secretary Moniz and Administrator McCarthy:

As Senators from different states, we don't always agree. However, there is an area we believe holds great promise for protecting our environment and growing our economy: carbon capture and utilization (CCU). We write to urge the Department of Energy and the Environmental Protection Agency to support CCU throughout your efforts and programs.

CCU technologies work by capturing carbon dioxide from power plants and other sources and turning it into valuable products, such as algae-derived chemicals, plastics, and fuels. CCU transforms carbon dioxide from a waste disposal problem into an economic resource and could lower the cost of reducing carbon dioxide emissions.

Companies and research institutions across the country, including innovators in Rhode Island and West Virginia, are developing a wide range of CCU technologies. As your agencies explore ways to reduce emissions, we urge you to support these efforts and promote innovative CCU technologies that will create jobs, save consumers money, and safeguard our environment.

Sincerely,

  
Sheldon Whitehouse  
United States Senator  
Joe Manchin III  
United States Senator



March 30, 2015

The Honorable Sheldon Whitehouse  
United States Senate  
Washington, D.C. 20510

Dear Senator Whitehouse:

Thank you for your letter of January 15, 2015, to the U.S. Department of Energy Secretary Ernest Moniz and the U.S. Environmental Protection Agency Administrator Gina McCarthy, in which you express your support for carbon capture and utilization (CCU) technologies. We have been asked to respond on their behalf.

The U.S. Department of Energy (DOE) has made considerable investments in CCU technologies since 2009, recognizing the important role these technologies play in creating jobs, saving consumers money, and protecting our environment. Under the American Recovery and Reinvestment Act (ARRA), DOE's Office of Fossil Energy (FE) invested approximately \$100 million into carbon dioxide (CO<sub>2</sub>) utilization projects. In October 2014, one of these projects, the Skyonics' Skymine project, opened its demonstration project, which will convert CO<sub>2</sub> into commercial products. This new plant will use a first-of-its-kind process to capture 75,000 tons of CO<sub>2</sub> from a San Antonio, Texas, cement plant and convert the greenhouse gas into other products, including sodium carbonate and sodium bicarbonate, hydrochloric acid and bleach.

Additionally, FE has made major investments in carbon capture research and development (R&D) activities since 2009 to reduce the cost of capturing CO<sub>2</sub>. Since fiscal year (FY) 2009, the program has invested over \$400 million in a portfolio of second generation carbon capture technologies that have progressed from the laboratory to small pilot-scale tests (i.e., approximately 20 tons of CO<sub>2</sub> per day). In FY 2015, FE will seek projects to further scale-up these technologies to large pilot-scale testing (approximately 200 tons per day, or the equivalent of a 10+ Megawatt-electric slipstream) so they are ready for demonstration by 2020.

In addition to FE's R&D activities, the Office of Energy Efficiency and Renewable Energy's (EERE's) Bioenergy Technology Office also invests in the development of algae-to-fuels technologies. Algal biofuel technologies use sunlight, water and CO<sub>2</sub> – potentially including captured CO<sub>2</sub> from industrial sources - to create algae biomass and subsequently useful products such as chemicals and transportation fuels. Since 2009, the office has invested \$150 million from regular appropriations into algal biofuel research. Additionally, ARRA investments included \$50 million for research and \$75 million for deployment.

In addition, DOE and the EPA have met with companies and research institutions that are developing CCU projects and we continue to be impressed by the innovations taking place in CCU. As new CCU technologies emerge, the DOE and the EPA are committed to working collaboratively to evaluate their efficacy, address any regulatory hurdles, and develop appropriate monitoring and reporting protocols.

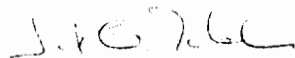
Finally, and as you are aware, CO<sub>2</sub> is currently utilized commercially for enhanced oil recovery (EOR). Several of FE's demonstration projects are selling, or will sell and utilize CO<sub>2</sub> for EOR, making these first generation demonstration projects viable. This in turn will help forge a pathway for future demonstration and deployment of second generation CCU technologies, ultimately leading to a future where long-term geologic storage of CO<sub>2</sub> is both viable and necessary to secure our energy, environmental, and economic future.

Thank you for your letter. If you have further questions, please contact us or your staff may contact Ms. Jaime Shimek, Deputy Assistant Secretary for Senate Affairs, in the DOE's Office of Congressional and Intergovernmental Affairs, at (202) 586-5450 or Ms. Nichole Distefano, Deputy Associate Administrator in the EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-2095.

Sincerely,



Christopher A. Smith  
Assistant Secretary  
Office of Fossil Energy  
U.S. Department of Energy



Janet G. McCabe  
Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency

HL-15-004964

**Congress of the United States**  
**Washington, DC 20515**

February 3, 2015

Peter C. Grevatt, Ph.D.  
Director  
Office of Ground Water and Drinking Water  
U.S. Environmental Protection Agency  
Washington, D.C. 20460

Dear Director Grevatt:

We appreciate the work the U.S. Environmental Protection Agency (EPA) has done over the past several months to establish health advisories for Microcystin-LR and Cylindrospermopsin.

In light of the water emergency that occurred in Ohio last August, we believe federal guidance on acceptable levels of these cyanotoxins in municipally-provided drinking water obtained from source water, as well as recommended testing and treatment options, is essential in helping states and local communities protect public health.


Last November, in your testimony during a hearing of the House Energy and Commerce Subcommittee on Environment and the Economy Subcommittee entitled "Cyanotoxins in Drinking Water," you stated that the EPA expects to release the health advisory for Microcystin-LR and Cylindrospermopsin in 2015. In other discussions, you indicated a more specific timeframe of spring 2015. You have also indicated that prior to release, the draft health advisories will undergo an independent external peer review to ensure that it reflects the best available science and that the EPA will engage with states and local communities.

We would request that you please provide us with a status update on when the EPA plans to complete its analysis of the peer-review comments on the science and outreach to state and local officials. Importantly, does the Agency intend to release the health advisories by May or June, at the latest?

We thank you for your efforts and appreciate you working with us on this matter over the past several months. We look forward to your response.

Sincerely,

  
Rob Portman  
United States Senator

  
Robert E. Latta  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 23 2015

OFFICE OF WATER

The Honorable Rob Portman  
United States Senate  
Washington, D.C. 20510

Dear Senator Portman:

Thank you for your February 3, 2015, letter to the U.S. Environmental Protection Agency regarding the agency's efforts to establish health advisories for two cyanotoxins.

As you noted in your letter, the EPA is currently completing an independent external peer review of the draft health advisories for Microcystins and Cylindrospermopsin to ensure that they reflect the best available science. The health advisories will provide information on environmental properties, health effects, analytical methods and treatment technologies. The EPA expects to finalize the health advisories by June 2015.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Cathy Davis in the EPA's Office of Congressional and Intergovernmental Relations at Davis.CatherineM@epa.gov or (202) 564-2703.

Sincerely,

A handwritten signature in black ink that reads "Kenneth J. Kopcis". The signature is written in a cursive, flowing style.

Kenneth J. Kopcis  
Deputy Assistant Administrator

MARIA CANTWELL  
WASHINGTON

COMMITTEES:  
COMMERCE, SCIENCE, AND  
TRANSPORTATION  
ENERGY AND NATURAL  
RESOURCES  
INDIAN AFFAIRS  
SMALL BUSINESS

717 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510-4705  
(202) 224-3441  
FAX: (202) 226-0814

## United States Senate

WASHINGTON, DC 20510-4705

January 12, 2015

Ms. Laura Vaught  
Associate Administrator for Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Ave, NW, Room 3426 ARN  
Washington, D.C. 20460-0001

Dear Laura,

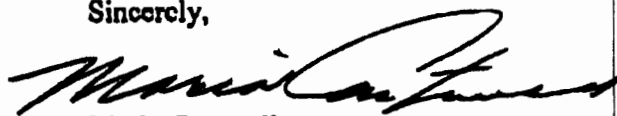
My constituent, *Wenatchee* has contacted my office for assistance with an issue within your jurisdiction. The following document(s) provide an explanation of my constituent's concerns. I would appreciate your prompt attention to this matter, and I look forward to your response.

Please direct your response to Bryan Raines in my Spokane Office. Bryan Raines can be reached as follows:

Bryan Raines  
920 West Riverside Avenue  
Spokane, WA 99201  
Phone: (509) 353-2507  
Fax: (509) 353-2547  
bryan\_raines@cantwell.senate.gov

If you need any additional information, please do not hesitate to contact my office. Thank you for your assistance in this matter.

Sincerely,



Maria Cantwell  
United States Senator

MC: BR

PLEASE REPLY TO:

U.S. FEDERAL COURTHOUSE  
WEST 920 RIVERSIDE, SUITE 807  
SPOKANE, WA 99201  
(509) 353-2807  
FAX: (509) 353-2647

JACKSON FEDERAL BUILDING  
915 2ND AVENUE, SUITE 3208  
SEATTLE, WA 98176-1003  
(206) 220-8400  
TOLL FREE: 1-800-848-7328  
FAX: (206) 220-8404

MARSHALL HOUSE  
1313 OFFICER ROW  
FIRST FLOOR  
VANCOUVER, WA 98001  
(206) 696-7838  
FAX: (206) 696-7844

826 JASMIN AVENUE  
Q-58-A  
RICHLAND, WA 99352  
(509) 948-8108  
FAX: (509) 948-8377

3830 WETMORE AVENUE  
SUITE 88  
EVERETT, WA 98201  
(425) 303-0114  
FAX: (425) 303-4361

860 PACIFIC AVENUE  
6TH FLOOR  
TACOMA, WA 98402  
(253) 573-3281  
FAX: (253) 573-8879



MARIA CANTWELL  
WASHINGTONCOMMITTEE  
COMMERCE, SCIENCE, AND  
TRANSPORTATION  
ENERGY AND NATURAL  
RESOURCES  
FINANCE  
INDIAN AFFAIRS  
SMALL BUSINESS

## United States Senate

WASHINGTON, DC 20510-4705

The Privacy Act of 1974 is a Federal law designed to protect you from unauthorized use and exchange of personal information by Federal agencies. Any information that a Federal Agency has on file regarding your dealings with the United States government may not, with a few exceptions, be given to another agency or to a Senator or Member of Congress without your written permission.

## PLEASE DESCRIBE THE SITUATION WITH WHICH YOU ARE REQUESTING ASSISTANCE

Please refer to E-mail sent 12-09-2014



I hereby request the assistance of the Office of United States Senator Maria Cantwell in resolving the matter described above and authorize Senator Cantwell and her staff to receive any information which they might need in order to provide this assistance.

DATE: 12-09-14

SIGNED:

exempt

NAME

exempt

EMAIL:

exempt

ADDRESS:

exempt

CITY: Rochester

STATE: WA

ZIP: 98579

DAY PHONE:

exempt

EVENING PHONE:

exempt

SEX:

exempt

DOB:

exempt

ALIEN ID #:

φ-N/A

OTHER CLAIM #:

None yet assigned

SEATTLE  
2000 University Avenue  
Suite 800  
Seattle, WA 98101  
Call (206) 462-1111  
Fax (206) 462-1111RICHMOND  
2000 University Avenue  
Suite 800  
Richmond, WA 98173  
Call (206) 462-1111  
Fax (206) 462-1111SEATTLE  
JACKSON FREEMAN BUILDING  
915 3rd Avenue, Suite 2200  
Seattle, WA 98101  
Call (206) 462-1111  
Fax (206) 462-1111SPokane  
U.S. Federal Courthouse  
1000 W. Washington, Suite 1200  
Spokane, WA 99201  
Call (509) 325-3333  
Fax (509) 325-3333TACOMA  
200 Pacific Avenue  
Suite 800  
Tacoma, WA 98402  
Call (253) 472-1111  
Fax (253) 472-1111VANCOUVER  
Marshall House  
1200 Broadway Tower  
First Floor  
Vancouver, WA 98660  
Call (360) 425-1111  
Fax (360) 425-1111WASHINGTON, DC  
301 Main Street, 2nd Floor  
Washington, DC 20001-2000  
Call (202) 555-1111  
Fax (202) 555-1111WWW.SENATORCANTWELL.OFFICE.GOV  
PRINTED ON RECYCLED PAPER

I have attempted, twice, to set up a meeting with the EPA at their Lacey, Washington office to show them documentation I have obtained which is too voluminous, and in some cases, too large in size for me to scan to send by email. Also, I will be 75 years old in a few days and am not very computer savvy.

A Construction project was contracted to be built by a public and a private entity. This project affected several landowners including myself. From the documentation I have obtained, I am unable to determine whether full disclosure of the project, and proper environmental review of, notification to and comment response by all public agencies who should have been involved was done prior to the commencement of this project.

This project involved crossings of State highway SR12, the Black River, a Conservation District Trust, and multiple private properties. The WA State Dept of Fish and Wildlife pamphlet shows that Coho, Chinook and Chum salmon run in this river. The portion of the Black River affected by the project is shown delineated and categorized on the U.S. Fish and Wildlife's Wetlands Mapper. The Black River flows through Chehalis Tribal Lands directly downstream from the construction site. The construction occurred within a FEMA designated Zone A Special Flood Hazard Area 100 year flood plain. They installed poles, vaults, conduits, cables, multiple types of lines and other appurtenances, some within the 200 foot margin along the bank of the river. From what I see written in the SEPA, only the installation of poles seems to be referred to.

I would like to know what the obligations of the public agency and private entity are lawfully, ethically and otherwise to provide full and accurate disclosure of information to the public agencies tasked with mandated oversight, as well as to the private landowners in construction projects of this type, and who has oversight over them.

Any time you can provide to discuss this matter with you and to review the documentation would be greatly appreciated. Thank you.

*Exempt*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, Washington 98101-3140

FEB 17 2015

OFFICE OF THE  
REGIONAL ADMINISTRATOR

Mr. Bryan Raines  
920 West Riverside Avenue  
Spokane, Washington 90460-0001

Dear Mr. Raines:

Thank you for your letter to Laura Vaught, Associate Administrator for the Environmental Protection Agency's Office of Congressional and Intergovernmental Relations. We appreciate you taking the time to write to us about your constituent's concerns regarding the construction of transmission lines, cables, and related facilities in Thurston County, Washington.

According to your January 12, 2015, message and the attached email from your constituent, *Exempt* the primary question is whether full disclosure of the project took place with proper environmental review and public notification. *Exempt* email indicates that a SEPA document developed for the project seems to include only the installation of poles, not the vaults, conduits, cables and related facilities within the 200 foot margin along the bank of the Black River.

My staff contacted *Exempt* and her son *Exempt* by phone on Monday, February 2, 2015, to obtain more information about the project and listen to their concerns. The project was constructed between January and March of 2010. The *Exempt* have documentation of the project that they shared with a Washington State Department of Ecology representative in the summer of 2014. They requested a meeting with EPA last November, but were unsuccessful in contacting the right person.

We believe that the question the *Exempt* are asking is a valid one. To the best of our knowledge, the project did not come up for EPA's review under either NEPA or Clean Water Act Section 404. Annie Szvetcz of the Washington State Department of Ecology would be a good contact to obtain more detailed information regarding any SEPA analysis of the Comcast cable crossing. She can be reached at 360-407-6925. If construction was done in jurisdictional wetlands, a Clean Water Act Section 404 permit from the Army Corps of Engineers would have been necessary. A knowledgeable Corps representative for projects in that area is Darren Habel who can be reached at 206-764-6883.

Thank you again for your message and if you have further questions please contact Teena Reichgott of my staff at 206-553-1601 or by electronic mail at reichgott.christine@epa.gov.

Sincerely,

Dennis J. McLerran  
Regional Administrator

## United States Senate

WASHINGTON, DC 20510

March 22, 2015

The Honorable Elliot Kaye  
Chairman  
Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dr. Thomas R. Frieden  
Director  
Centers for Disease Control and Prevention  
1600 Clifton Road  
Atlanta, GA 30329

The Honorable Edith Ramirez  
Chairwoman  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Dear Chairman Kaye, Administrator McCarthy, Director Frieden, and Chairwoman Ramirez:

I write you today to urge the Consumer Product Safety Commission (CPSC), Environmental Protection Agency (EPA), and Center for Disease Control (CDC) to immediately launch a broad investigation into the safety of Chinese-imported laminate wood flooring material from Lumber Liquidators and to also fully examine whether CPSC's voluntary industry standard for formaldehyde serves as adequate guidance for protecting the health of consumers. The greater New York City area and Long Island have shown their remarkable resilience in the wake of hurricane Sandy, as evidenced by the quick rebuilding of communities and homes. It is critical that CPSC partners with the EPA and CDC to ensure that these consumers and others have not purchased wood laminate flooring that contains unacceptable levels of formaldehyde.

As you know, a recent 60 Minutes report, based off of testing of wood materials from New York stores, exposed concerns that Lumber Liquidators' laminate flooring contains unsafe levels of formaldehyde, a dangerous carcinogen that can cause short- and long-term respiratory problems, and other health problems. In addition, the report suggested that Chinese mills manufacturing the product were not complying with the California Air Resources Board emission standard (CARB 2) and were falsely labeled as in compliance. Given that Lumber Liquidators has over 360 stores across the country, including at least fifteen in New York State, your Agencies must make an immediate investigation a top priority, as impacts could be widespread.

I encourage CPSC to use its authority under the Federal Hazardous Substance Act to conduct a defect investigation on the product and if necessary create a mandatory standard for formaldehyde levels in laminate wood flooring. In addition, if it is found that the Chinese-imported wood laminate flooring from Lumber Liquidators contains dangerous levels of formaldehyde, I urge the CPSC to fully explore using its authority for product recalls. It is critical that CPSC partners with EPA and CDC to utilize each agency's expertise to do an in-

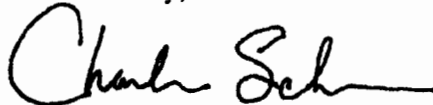


depth investigation into the safety of these products. In addition, it is important that in your agencies examination that you also determine whether the voluntary industry standard, which has been set by the American National Standards Institute (ANSI), is in fact adequate for protecting public health.

I am also concerned that the incorrect labeling of these products as compliant with California's consumer safety standards could mislead consumers into a purchase they would otherwise not make. This kind of misinformation could constitute an unfair or deceptive trade practice in violation of Section 5 of the Federal Trade Commission Act. I hope you will coordinate with the Chairwoman of the FTC, copied here, to investigate and pursue any such violations.

Thank you for your attention to this important issue and I look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles E. Schumer". The signature is fluid and cursive, with the first name "Charles" and last name "Schumer" clearly distinguishable.

United States Senator  
Charles E. Schumer



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**MAY - 5 2015**

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

The Honorable Charles E. Schumer  
United States Senate  
Washington, DC 20510

Dear Senator Schumer:

Thank you for your March 22, 2015, letter to the U.S. Environmental Protection Agency requesting that the agency coordinate with the Consumer Product Safety Commission, the Centers for Disease Control and Prevention, and the Federal Trade Commission concerning issues brought to light by a recent 60 Minutes report on formaldehyde emissions from laminate wood flooring material. The EPA is coordinating with the CPSC on this issue.

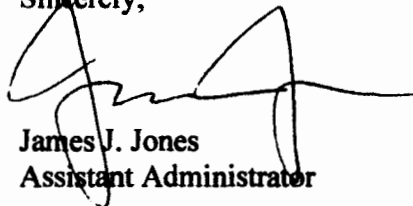
As you know, the Formaldehyde Standards for Composite Wood Products Act (TSCA Title VI) establishes formaldehyde emission standards for hardwood plywood, particleboard, and medium-density fiberboard. Congress chose to include laminated products on the list of composite wood products to be regulated under TSCA Title VI. Congress also provided the EPA with the authority to modify the definition of laminated product and exempt some or all laminated products from the definition of hardwood plywood pursuant to a rulemaking under TSCA Title VI, which shall be promulgated "in a manner that ensures compliance with the [statutory] emission standards."

The agency agrees that a national formaldehyde standard for composite wood products is important for American consumers and the wood products industry, and is working diligently to complete the regulations that will implement the Act. As part of this effort, the EPA specifically requested data on formaldehyde emissions from laminated products, as well as comments and information on the proposed definition of laminated products. The EPA received a wide variety of public comments on this issue, including comments from trade associations representing laminated product producers and producers of similar products, environmental advocacy groups, and individual businesses. The agency will consider all information received from commenters in developing the final rule, which is expected to be made final later this year.

In regard to concerns you raise about consideration of voluntary industry standards for formaldehyde and their adequacy as guidance for protecting the health of consumers, as I indicated earlier, my staff are already in contact with the CPSC and will continue to coordinate appropriately.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Mr. Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at [kaiser.sven-erik@epa.gov](mailto:kaiser.sven-erik@epa.gov) or (202) 566-2753.

Sincerely,

A handwritten signature in black ink, appearing to be 'James J. Jones', written over a horizontal line.

**James J. Jones**  
**Assistant Administrator**

*R2-15-000-6171-C*

# United States Senate

WASHINGTON, DC 20510

CLIMATE  
CONSUMER AFFAIRS  
BANKING  
DEMOCRATIC POLICY & COMMUNICATIONS  
FINANCE  
LEGISLATIVE  
RULES

February 28, 2015

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Administrator McCarthy:

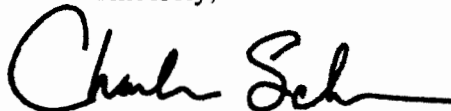
I write to urge the Environmental Protection Agency to Issue an Unilateral Administrative Order (UAO) to the Department of Defense (DOD) and Northrop Grumman under the authority the Resource Conservation and Recovery Act or Comprehensive Environmental Response, Compensation, and Liability Act. The U.S. Navy operated a Naval Weapons Industrial Reserve in Bethpage beginning in the 1930s, which has resulted in at least 2 hazardous plumes containing chemicals classified as carcinogens. Since the Navy and Northrop Grumman failed to reach a Record of Decision (ROD) through an Order of Consent, I urge the EPA to issue an UAO with enforceable timelines to bring all parties together to move the process forward.

Contamination concerns were first identified in 1976. The plume has since spread and is currently threatening over 20 additional public drinking wells that serve over 250,000 Nassau County residents in Bethpage, Massapequa, South Farmingdale and Wantagh Districts. New hot spots have been found between Bethpage Water District Plant 6 and the GM 75 hotspot. In addition, elevated levels of a potential carcinogen, trichloroethylene (TCE), have been found in the groundwater 1,700 feet away from a Bethpage drinking water well. TCE is an industrial solvent and was used at the former defense plant in Bethpage, which was operated by Northrop Grumman and the U.S. Navy.

In November, NYSDEC notified Northrop Grumman that the Department expects them to participate with the Navy in the cleanup process within the Bethpage plume. NYSDEC urged Northrop Grumman to sign an order of consent to undertake this work. The EPA has indicated that if the order of consent was not signed within 30 days that the agency would consider issuing an administrative order to Northrop Grumman. Currently, 90 days have since passed and the administrative order has not yet been issued.

Again, I urge the EPA to issue a Unilateral Administrative Order to the Department of Defense's (DOD) and Northrop Grumman to ensure that the remediation of the impacted area moves forward. I thank you for your attention to this important request and look forward to working with your agency to address this most important issue for numerous communities across Long Island.

Sincerely,



Charles E. Schumer  
United States Senator







**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

**MAR 20 2015**

The Honorable Charles E. Schumer  
United States Senate  
Washington, D.C. 20510

Dear Senator Schumer:

Administrator Gina McCarthy has asked me to reply to your letter of February 28, 2015 regarding the inactive Naval Weapons Industrial Reserve Plant and Northrop Grumman hazardous waste site in Bethpage, New York. As you know, the Northrop Grumman Company (NG) and the U.S. Navy are responsible for carrying out the cleanup of the site, including the extensive groundwater contamination resulting from past operations at the facility.

The New York State Department of Environmental Conservation (NYSDEC) has the lead regulatory role with respect to this site. In our oversight role under the Resource Conservation and Recovery Act (RCRA), the U.S. Environmental Protection Agency (EPA) has been working closely with NYSDEC on this matter.

Both NG and the Navy have undertaken response actions to address the contamination, though much remains to be done. To date, the efforts of NG have been directed primarily to contamination at the former facility, while the efforts of the Navy have been focused primarily on investigation and remediation of the groundwater contamination beyond the facility boundary. In November, 2014, with EPA's agreement, the NYSDEC requested that NG enter into a written administrative consent order with the state agency to ensure, among other things, that the actions addressing the contamination beyond the facility boundaries continue to be performed.

It is our understanding that an agreement in principle was recently reached between NG and NYSDEC. The parties expect that a final agreement will be executed before the end of April, 2015.

We agree that this is a matter of great importance, and that progress in addressing the full scope of contamination has been slow. Long Island residents rely primarily on groundwater as their source of drinking water. It is essential that this toxic plume be addressed in a timely and effective fashion to ensure that the people of Long Island can continue to have clean drinking water. We are pleased that the parties have reached this agreement in principle. We will continue to provide technical advice and assistance; and we will closely monitor the parties' progress towards finalizing the agreement and accelerating the cleanup itself.

Sincerely,

A large, stylized handwritten signature in black ink, reading "Judith A. Enck".

Judith A. Enck  
Regional Administrator

## United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
WASHINGTON, D.C. 20540

March 17, 2014

The Honorable Gina McCarthy  
 Administrator  
 Environmental Protection Agency  
 1200 Pennsylvania Avenue NW  
 Washington, DC 20460

**Re: Petition for Reconsideration of Final Rule published in the Federal Register  
 October 15, 2012, Docket Nos. EPA-HQ-OAR-2010-0799 and NHTSA 2010-  
 0131 (2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas  
 Emissions and Corporate Average Fuel Economy Standards)**

Dear Ms. McCarthy:

Since the Alternative Motor Fuels Act of 1988, natural gas vehicles (NGVs) have been awarded incentives under federal Corporate Average Fuel Economy (CAFE) rules. However, Environmental Protection Agency's (EPA's) light-duty vehicle greenhouse gas (GHG) rules established in the above-referenced docket curtail some incentives after model year 2016. By contrast, the analogous incentives for electric vehicles (EVs) are extended through 2025, creating a bias clearly in favor of EVs over NGVs.

In 2014, I worked to pass legislation to address, *inter alia*, the minimum driving range for alternative fuel vehicles. However, in the above-referenced docket, EPA required that dual-fuel NGVs: (1) have a minimum ratio of natural gas range to gasoline range of 2.0; and (2) are designed so that gasoline can only be used when the CNG tank is empty<sup>1</sup> in order to take advantage of utility factor calculations in measuring greenhouse gas (GHG) emissions and CAFE. It is my understanding that VNG and NGV America filed a petition for reconsideration with EPA in December 2012 urging reversal of this decision, and it is my further understanding that EPA has not taken any action on this petition.

I request a status update regarding EPA's consideration of the VNG/NGV America petition and to urge a prompt decision granting the relief requested in the petition. The threshold established by EPA is contrary to the current automobile industry practice and serves no purpose other than to unnecessarily hinder the market development of NGVs. All of the dual-fuel NGVs currently available and announced for model year 2015 provide twice the range on gasoline as they do on natural gas, but still provide a minimum of 150 miles on natural gas. There is no justification for preventing these vehicles from taking advantage of the utility factor calculations in measuring greenhouse gas emissions.

<sup>1</sup> 77 F.R. 62624, at 62828-29, 63129-30.

Similarly, under EPA's GHG rules, both EVs and NGVs are temporarily credited as generating greater reductions in emissions than they do in the real world in order to encourage automakers to adopt these new technologies. However, EV incentives will be in effect through 2025 while NGV incentives will be phased out in 2016.

EPA justified its decision to phase out the emissions incentive for NGVs well before it phases out the incentive for EVs on the grounds that NGVs are not as much of a "game-changing" technology as EVs. In actuality, natural gas is not only a game-changer but an indispensable alternative when you consider the importance of the market for light trucks (larger vehicles such as pickups, minivans, and SUVs):

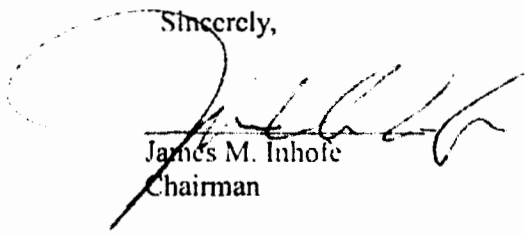
- Natural gas is the only commercially available alternative fuel for light trucks, which make up more than half the market and are increasingly popular with low gasoline prices
- EVs are limited to small cars (due to battery weight and cost), less than half of the market
- NGV emissions are already approximately 25% lower than gasoline and can be reduced further by blending with biogas and/or hydrogen

While EVs may be "game-changers" in their own right for cars, NGVs are clearly a game-changer for the light trucks that make up more than half of new vehicle sales. Light trucks account for over half of petroleum consumption and emissions and generally have lower fuel economy than cars. By allowing NGVs to continue receiving incentives, EPA will ensure that all clean fuel alternatives are developed for all types of vehicles – and not reserved for EPA's ideal small EVs.

I recognize that one of your concerns may be that consumers who purchase dual-fuel NGVs will not use the alternative fuel and will rely instead on gasoline. This concern is unfounded. This issue is a real one in the flex-fuel vehicle market; very few consumers ever run their flex-fuel vehicles on ethanol. Dual-fuel NGVs are different. Automakers do not generally charge a premium for flex-fuel vehicles compared to their gasoline-only equivalents; as such there is no ongoing financial incentive (or disincentive) to a specific fuel. Dual-fuel NGVs, however, often see upcharges ranging from \$5,000 to \$10,000 per vehicle – a function of the necessary equipment add-ons. Knowing this, the only economically sound reason to purchase a dual-fuel NGV is to take advantage of lower natural gas fuel prices, irrespective of the vehicle's range on that fuel. Consumers who have dual-fuel NGVs use natural gas as their primary fuel, and EPA's regulations should credit automakers accordingly.

I appreciate your attention to and prompt resolution of this matter.

Sincerely,



James M. Inhofe  
Chairman

cc:

Robin Moran (EPA)

Lily B. Smith (NHTSA)

Gregory Powell (NHTSA)

James Tamm (NHTSA)

John W. Whitefoot, Ph.D. (NHTSA)

United States Senate  
WASHINGTON, DC 20510

March 10, 2015

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Dear Administrator McCarthy:

EPA's recently proposed National Ambient Air Quality Standard (NAAQS) for ozone will likely be the costliest rule the Agency has ever proposed. The November 2014 draft Regulatory Impact Analysis ("draft RIA") estimates that the cost of lowering the standard could range from \$3.9 billion to almost \$39 billion in 2025 (\$2011 dollars) depending on the standard and the assumptions used.<sup>1</sup> While these numbers are high, there are significant reasons to believe that the draft RIA may underestimate the likely true cost to the American public due to a number of questionable assumptions included in the analysis.

*Inflated Baseline Controls:* EPA's draft RIA estimates only the incremental costs of reducing emissions above a "baseline" level of controls. One way to lower the projected incremental costs is to assume more controls are imposed in the baseline. For instance, EPA assumes in the baseline that the existing ozone standard will be fully implemented, despite the fact that over 225 counties have yet to meet the existing standard. EPA also makes a number of misleading assumptions that other regulations and proposals will be fully implemented, such as CAFE, Tier 3, and the existing source proposal for electric utility generating units ("Clean Power Plan"), greatly underestimating the true cost of compliance with this proposal.

California costs are also calculated separately, further underestimating the true potential cost of compliance of a lowered NAAQS. The draft RIA estimates the annual cost to California alone would be between \$800 million and \$2.2 billion.<sup>2</sup> Clearly, the rule's estimate of projected costs ignores the very substantial burden the American public has yet to shoulder to meet the existing standard.

*Arbitrarily Capping Known Control Costs to \$14,000/ton for NOx and \$15,000/ton for VOC's. (p7-4 of draft RIA):* EPA also lowers compliance costs by arbitrarily assuming that costs for known controls are capped.<sup>3</sup> Private sector analyses, however, show that EPA is ignoring expensive and politically unpalatable known measures, such as early retirement of stationary sources and replacement of higher emitting mobile sources.

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<sup>1</sup> *Regulatory Impact Analysis of the Proposed Revisions the National Ambient Air Quality Standards for Ground-Level Ozone ("RIA")*, November 2014, at 7A-7 to 7A-8

<sup>2</sup> *Id.* at ES-18

<sup>3</sup> *Id.* at 7-4

*Focusing on only 2025:* While a snapshot of the annualized costs in the year 2025 is illustrative, it does not provide the public with a full understanding of the likely costs of the program and when these costs might peak. Nonattainment designations will be made in 2017 and will be based on nearly-current air quality conditions (i.e., ozone levels in the years 2014-2016). As a result, many more counties will likely be designated as nonattainment in 2017 than the nine counties identified by EPA as still being in nonattainment in 2025. For example at 70 ppb, the high end of EPA's proposed range, approximately 350 counties would violate the lower standard based on current ozone levels.<sup>4</sup> Many of these counties and the surrounding areas will be forced to initiate expensive local source control programs before 2025, even though EPA estimates only 9 counties will still fail the 70 ppb standard by 2025. This suggests that the costs estimated based only on 2025 conditions will omit costs and, in particular, will omit costs that will occur in earlier years. We believe it would be useful for the public to see the projected costs and benefits in other years as well as the net present value costs of the full program.

*Underestimating the cost of unknown controls:* One of the most important assumptions used by EPA is the Agency's estimate for the cost of "unknown" controls. At 70 ppb, over 60 percent of the total costs of the program are based on the costs of unknown controls. At 65 ppb, this number jumps to roughly 75 percent of the estimated total costs of the program.<sup>5</sup> Any assumption regarding the costs of unknown controls will clearly dominate the estimate of total and annualized costs, and yet this is the most uncertain value in EPA's cost analysis.

As in past RIAs, EPA makes the assumption that innovative strategies and new control options not known today will appear in the near future. The problems with this fundamental assumption should not be overlooked. Many counties in California, Texas, and New England have failed to meet the existing standards, despite decades of struggle. The fact these technologies are not yet known given strong incentives dating back to the 1970s raises important questions regarding whether and how quickly these controls will be developed.

EPA's draft RIA not only assumes the technologies will quickly develop, but that they will cost no more on average than the costs of the more expensive emission controls being employed today. This is at odds with EPA's final RIA for the 2008 ozone standard review where EPA evaluated unknown controls using both fixed cost assumptions and a hybrid cost assumption that allowed for gradual increases in costs overtime in line with standard marginal cost data. Unsurprisingly, the hybrid assumption yields higher cost estimates. In the new draft RIA, EPA has dropped the hybrid cost analysis altogether, further lowering its cost estimates.

*Ignoring Inflation:* EPA also lowers its fixed cost estimates for unknown controls in its new draft RIA (compared to the 2008 RIA) by assuming the same fixed cost estimates for unknown controls but in \$2011 dollars rather than \$2006 dollars. This sleight of hand lowers the assumed fixed costs by another 10 percent or more.

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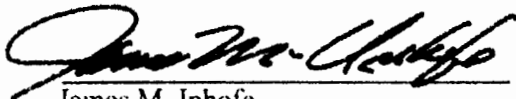
<sup>4</sup> EPA fact sheet, Ozone By the Numbers, at 2

<sup>5</sup> RIA at 7A-7 and 7A-8

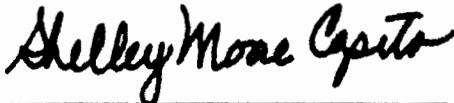
*Ignoring Market Prices:* As EPA lowers the standard, more areas in the country, including many in the Northeast and Southeast, will have to adopt California-level controls before facing the uncertainty of unknown controls. Emission trading markets in California and Texas give us a market-based projection of how expensive these controls might actually be. For Houston, the 2013 annualized offset prices for nitrogen oxide (NO<sub>x</sub>) emissions, a precursor for ozone, was \$97,000 per year. In the California South Coast, annualized offset prices for NO<sub>x</sub> have averaged over \$106,000.<sup>6</sup>

The American public should be skeptical of EPA's cost estimates. In contrast to the 2008 RIA, EPA's draft 2014 RIA fails to show through whole economy modeling how these costs will be distributed through the economy and what the economic impact of the costs will be. The American public deserves to know more, and we plan to seek answers to these important questions in the days ahead.

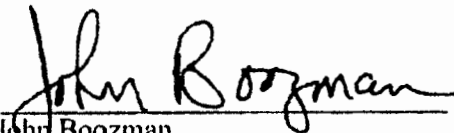
Sincerely,



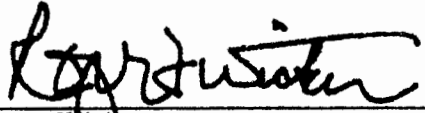
James M. Inhofe  
Chairman  
Environment and Public Works .



Shelley Moore Capito  
United States Senator



John Boozman  
United States Senator



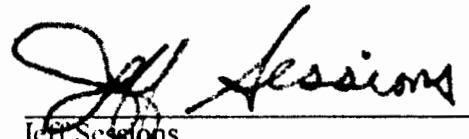
Roger Wicker  
United States Senator



David Vitter  
United States Senator



Mike Crapo  
United States Senator



Jeff Sessions  
United States Senator

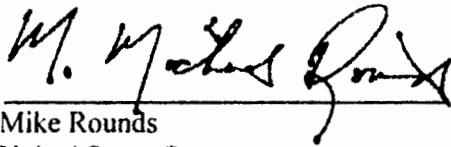


Deb Fischer  
United States Senator

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<sup>6</sup> RIA at 7-24.

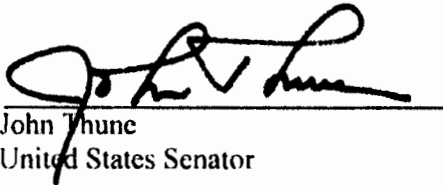
Administrator McCarthy  
March 10, 2015  
Page 4 of 4



Mike Rounds  
United States Senator



Dan Sullivan  
United States Senator



John Thune  
United States Senator



John Barrasso  
United States Senator





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 21 2015

OFFICE OF  
AIR AND RADIATION

The Honorable James M. Inhofe  
Chairman  
Environment and Public Works Committee  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter of March 17, 2015, to U.S. Environmental Protection Agency Administrator Gina McCarthy, inquiring about the status of the EPA's consideration of a petition for reconsideration filed by VNG and Natural Gas Vehicles for America (NGV America), regarding the compressed natural gas (CNG) vehicle provisions in the light-duty greenhouse gas (GHG) standards rulemaking for model years 2017-2025. The Administrator asked that I respond on her behalf.

VNG's petition is focused on a narrow issue regarding assumptions about how often consumers fuel with CNG compared to gasoline for dual-fuel vehicles. In the 2017 - 2025 rule, after undergoing public notice and considering public comments, the EPA established provisions to ensure that the emissions of dual-fuel CNG vehicles reflect the expected real-world usage of the two fuels. These provisions allow emissions of dual-fuel vehicles to assume a high level of CNG (e.g., 90 percent or higher) use for those vehicles achieving a CNG range that is double or more that of the gasoline range. We refer to this as the "utility-factor" based calculation, and the specific utility factor allowed for use in the vehicle emissions calculation varies based on the vehicle's CNG range. For example, a vehicle with a CNG range of 150 miles (and gasoline range of 75 miles or less) would use a compliance assumption of roughly 92 percent CNG and 8 percent gasoline (in other words, the GHG emissions when using CNG are weighted at 92 percent and the GHG emissions when using gasoline are weighted at 8 percent). Vehicles that have a CNG-to-gasoline range of less than two would use a 50 percent weighting of emissions for both CNG and gasoline. VNG's specific request in the petition is that the EPA eliminate the requirements that dual-fuel vehicles must have a CNG range double or more than that of gasoline in order to be eligible for the utility-factor approach.

The EPA is in the process of carefully reviewing the issues raised in the VNG petition. We have met with representatives of VNG several times and have had a constructive dialogue thus far. In these discussions, we have identified key data gaps that currently exist, including GHG emissions for dual-fuel vehicles running on CNG compared to gasoline and the real-world fueling experience of dual-fuel vehicles on CNG relative to gasoline. On several occasions we have asked VNG for empirical data to support their supposition that consumers driving dual-fuel CNG vehicles use natural gas nearly exclusively even when vehicle range on CNG is less than that on gasoline. Such data would enable the EPA to make an informed decision on the petition based upon the best available data and information.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at [haman.patricia@epa.gov](mailto:haman.patricia@epa.gov) or (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe".

Janet G. McCabe  
Acting Assistant Administrator